

# **DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008**

WEDNESDAY, MARCH 28, 2007

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 9:46 a.m., in room SD-124, Dirksen  
Senate Office Building, Hon. Tom Harkin (chairman) presiding.  
Present: Senators Harkin and Specter.

## **DEPARTMENT OF LABOR**

### **OFFICE OF THE SECRETARY**

#### **STATEMENT OF HON. ELAINE L. CHAO, SECRETARY**

##### **OPENING STATEMENT OF SENATOR TOM HARKIN**

Senator HARKIN. This Appropriations Subcommittee on Labor, Health and Human Services and Education will come to order for this hearing on the funding for the Department of Labor.

##### **JIM SOURWINE TRIBUTE**

But before we begin, I would like to have us take a moment here to pay tribute to someone who has meant a great deal to me, to this committee, the Senate, and the mission of the Department of Labor. That is Jim Sourwine.

Jim has been an essential part of the committee's work since 1972, when he was detailed to this committee from the Department of Labor. So this morning I want to recognize him on his retirement from the committee staff.

For more than 30 years, Jim did his best to keep a low profile and stay out of the limelight. But I am sorry, Jim. It is time you get the public credit you deserve.

Jim's outstanding service has made a real difference for the American people. When Jim started working at the Department of Labor in 1967, the Job Corps program was in its infancy—just 3-years-old. Today it is a \$1.6 billion enterprise, widely touted for its performance standards and student outcomes, helping more than 60,000 youths each year. Well, it was Jim's skill, and expertise, and doggedness that helped make that happen.

He has organized and staffed countless hearings on important topics, such as ergonomics and overtime. And whenever this subcommittee has faced some sticky legislative problems, he has always known just how to solve them. You might say he is our default guy. He is our go-to person.

For example, Jim is the one who figured out how to create a stable funding system to handle the fluctuating workloads of unemployment insurance claims. So Jim will be missed not just for his outstanding work for the committee, we will also miss him for how he has treated each of us. Senators and staffers alike. Always courteous. Always helpful. He is an appropriator's appropriator.

He has worked for Republicans and he has worked for Democrats, back and forth for all these years. He has done it with equal diligence and faithfulness to both.

Now he deserves a chance in retirement to do all the things he had less time to do while he slaved here late into the night and on weekends, and everything else for all those years. I suspect and hope that many of the things he will be doing involve golf clubs.

So, Jim, the committee thanks you for your service, as do I personally. We wish you all the best in your retirement.

I would yield to my esteemed colleague, Senator Specter.

#### OPENING STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Well, thank you, Mr. Chairman. Thank you for scheduling this well-deserved tribute to Jim Sourwine. When you go back to 1972, when Senator Warren Magnuson was the chairman of this subcommittee, that establishes Jim Sourwine with a lot of seniority. More seniority than either the chairman or the ranking member have at the present time.

The staff work that Jim has undertaken has been really very, very difficult. Our staffs on the Appropriation Committee are called upon to draft, and redraft, and amend, and supplement legislation. It is a job which requires a lot of overnights, when they have to read out the bill. A lot of weekends, when we are into that stage in September, October. It is very, very intense work. I think unusually so. Jim has undertaken a wide share, focusing on the very difficult issues, which the Department of Labor has had.

I suspect that the golf courses will be seeing a lot more of Jim Sourwine in the future than they have in the past. But this will give him an opportunity to spend more time with his wife, Annette, children, Molly, Matt, and Billy. We will miss you, Jim, but we wish you the very best.

Mr. SOURWINE. Thank you.

Senator HARKIN. That is great.

Madam Secretary.

Secretary CHAO. Yes. Please.

Senator HARKIN. No. Wait, Jim. We are not done, yet.

Secretary CHAO. No. We are not finished yet.

#### JIM SOURWINE TRIBUTE

On behalf of the Department of Labor, let me also thank Jim Sourwine for his 40 years of service to America's workers. As the chairman and Senator Specter mentioned, Jim began his career at

the Job Corps, at the Department of Labor. In 1972, he was detailed on a temporary basis. What a detail it has been.

While he may have moved up to the Hill 35 years ago, before even the Department's Francis Perkins Building opened in 1974, he has dedicated his entire career to the Senate, to working on some of the most difficult and significant budgets, appropriations issues, facing several very significant departments. That is a tremendous accomplishment.

I have been told that today is the thirty-fifth Labor Appropriations hearing that Jim has attended. As you know, Chairman Harkin and Senator Specter, Jim has been the Senate's institutional knowledge, not only for the Senate, but also for the Department of Labor as well.

He understands these issues. He has always been an honest broker. We have valued his judgment, and also, many times, his advice. He knows how much this committee has spent on the Department's programs and which states they operate. All these kinds of details.

Most of all, I think we all know that at the Department, he really appreciates the staff at the Department of Labor, the tremendous work that the Department does to advance the interest and the concerns of working men and women. So thank you, Jim, so much.

You obviously have had a wonderful time up here. We want to wish you the best. We hope that you will take it easy, really enjoy yourself, and also get the time that your family so richly deserves, and your loved ones as well. Thank you.

Mr. SOURWINE. Thank you all so much.

I will have to get a copy of the transcript now.

Senator HARKIN. Thank you, Jim. It will never be the same without you.

Well, Madam Secretary, thank you very much. We will now turn to our hearing, as soon as I find my right page here.

#### OPENING STATEMENT

First of all, Madam Chairman, I would like to welcome you again to the committee, and return to the subject of today's hearing, the budget of the Department of Labor. First and foremost, I would be remiss if I did not thank you for the great work you did on the Job Corps Center in Ottumwa, Iowa. Also in Wyoming and New Hampshire.

As we just said about the Job Corps, it is interesting that this was Jim's deal when he first started. To this day, and today, we are still opening new Job Corps centers around the country. These three, I think, will be a welcome addition to all the other Job Corps centers around the country. So I thank you for that. We will see what we do to work together to make sure we move these along as rapidly as possible. Whatever else we need to do up here.

Madam Secretary, your Department has several critical responsibilities. One is administering Federal labor laws that guarantee workers' rights to safe and healthful working conditions. Another is helping workers find and prepare for work, such as a worker displaced by an employer that is relocating overseas and other things.

## MINE COMMUNICATIONS TECHNOLOGIES

Now, Madam Secretary, I am a little disturbed by some of the progress, or I should say lack of progress being made on some of these objectives. Now we had hearings here last month on MSHA; the assistant secretary of Mine and Safety Health Administration was here. I expressed my disappointment with the small number of communications technologies approved by MSHA to date.

We had had that hearing a year ago or so. That was under Chairman Specter's reign at that time. We had those hearings. We were talking to MSHA about moving ahead on some of these technologies. But it does not seem like we are making much progress on that.

Earlier this month, United Mine Workers Association reporting on the Sago Mine disaster, found significant shortcomings in MSHA's actions that could have prevented the deaths of the 12 miners who perished in that tragedy.

## OIL REFINING INDUSTRY INSPECTIONS

Last week, the Chemical, Safety, and Hazard Investigation Board released a report on the BP Texas City Refinery explosion in 2005 that resulted in the deaths of 15 workers and more than 100 injuries. The Board found that on your watch the Occupational Safety and Health Administration has not conducted one planned comprehensive inspection in the oil refining industry.

## INTERNATIONAL CHILD LABOR

I am also concerned, as you might guess, Madam Secretary, about the proposed—once again, the fight against international child labor. Now this is something that this committee has focused on, oh, for 12, 13, 14, years. Something like that. Last year, the International Labor Organization's global report, "The End of Child Labor Within Reach," stated that for the first time, child labor, especially in its worst forms, is in decline across the globe.

Between the years 2000 and 2004, the number of child laborers worldwide fell by 11 percent. So we are making real progress that could be reversed by the proposed cuts in this budget on that.

So I do not think this is the time to rest on our laurels. We are making headway. This Department has been a partner with us, as I said, going back a dozen years maybe or so in the efforts on child labor. I hope we are not going to be backing off on that now.

## DOL BUDGET REQUEST

We may get into talking about ergonomic standards, enforcing the requirements for protective equipment. Effective enforcement under the Family Medical Leave Act. But it is not just worker protection program. Your budget proposes a cut of \$1 billion in job training programs.

Earlier this month, Bill Gates testified before the HELP Committee, on which I also sit, the authorizing committee, and he said, and I quote, "Workforce enhancement should be treated as a matter of national competitive survival." He went on to say, "It is a down payment on our future. An extremely vital step to secure American competitiveness for future generations and to honor the

American ideal that every single one of us deserves the opportunity to participate in America's success." So I wonder what kind of a future can we expect if we are going to be cutting our budget by \$1 billion.

So Madam Secretary, that is what we are here to talk about, is the budget. Obviously, we are going to have some disagreements in that budget, because these values and policies, I think, this committee has supported strongly in the past under both Democratic and Republican chairmen.

We just cannot turn a blind eye towards employers who are denying their workers a safe place to work. Our continued success, I believe, in this country depends on investments that we make in workforce. Workforce training.

So again, we will get into more of that later and talk about these proposed cuts and stuff. But first, I would recognize my ranking member, Senator SPECTER, for any comments.

Senator SPECTER. Thank you. Thank you, Mr. Chairman. Madam Secretary, I join the chairman in welcoming you to this hearing. I compliment you, on your seventh year of service to the administration of President Bush. If you are not the longest serving secretary, you are certainly tied, because you have been here for the entire tenure of the President.

At the outset, I want to thank you for the Department's prompt response and your prompt response to the inclusion of \$25 million in the continuing resolution—directed at at-risk youth and tremendous problems in juvenile crime across this country.

It takes very prompt action to get those funds moving, so that they will be available for the start of the school year, and perhaps even sooner.

I share the concern about the budget. I know we live in an era of severe budget constraints. I know we made a large—or we are in the process of making a large appropriation on an emergency basis for the administration's programs, including the funding in Iraq.

But it seems to me that with the very heavy responsibilities which your Department has, that a decrease in the budget of \$1.1 billion, almost 10 percent from the fiscal year 2007 level, is hard to sustain.

If there is going to be this kind of a cut, there are going to have to be some very important programs affected. The \$1 billion decrease in job training and employment services, is a real problem. It impacts directly upon juvenile crime. As does the \$55 million cut in the Job Corps.

You have the prisoner reentry initiative and the reintegration of ex-offenders, with a decrease of \$25.4 million. These cuts will be very, very difficult to sustain, given the issues which that funding addresses.

We will, obviously, be taking a very, very close look at these recommendations. On our constitutional responsibility to appropriate, we will be putting our own imprint on the budget, as we always do. But we thank you for your hard work and your diligence, and look forward to your testimony.

Senator HARKIN. Thank you very much. Secretary Elaine Chao was sworn in as the twenty-fourth Secretary of Labor on January

31, 2001. She is the first Asian-American woman appointed to the President's cabinet in U.S. history.

Secretary Chao was president and CEO of the United Way Foundation from 1992 to 1996, and served as Director of the Peace Corps and Deputy Secretary of the Department of Transportation under former President Bush.

Most recently, she was a distinguished fellow at the Heritage Foundation. Secretary Chao received her MBA from Harvard Business School and her undergraduate degree from Mount Holyoke College. She also studied at M.I.T., Dartmouth, and Columbia University.

Madam Secretary, my first question for you—are you the longest-serving Labor secretary?

Secretary CHAO. No. I am not.

Senator HARKIN. Oh.

Secretary CHAO. Frances Perkins was Secretary of Labor for 12 years, under Franklin Delano Roosevelt. There was also Mr. Wilson.

Senator HARKIN. Has anyone served longer as a secretary in the administration of George W. Bush?

Secretary CHAO. I am probably the longest serving. Since the 1960s, I am probably the longest-serving Secretary of Labor.

Senator HARKIN. Very good. Welcome, Madam Secretary. And please proceed.

#### SUMMARY STATEMENT OF HON. ELAINE L. CHAO

Secretary CHAO. Thank you. Mr. Chairman, I have got a longer statement, which I will leave for the record. And then I have a shorter statement. I will go through it very quickly.

Senator HARKIN. That will be great.

Secretary CHAO. I will just go through some of the numbers, which we know already. But just also emphasize some of the priorities.

Chairman Harkin, Senator Specter, thank you for the opportunity to present the administration's fiscal year 2008 budget for the Department of Labor. The total budget for the Department is \$50.4 billion, of which \$10.6 billion is for discretionary spending. The Department's fiscal year 2008 budget focuses on four overall priorities: Protecting workers' health and safety; protecting workers' pay, benefits, pensions, and union dues; securing the employment rights of America's veterans; and increasing the competitiveness of America's workforce.

In fiscal year 2008, \$1.5 billion is requested for the Department's worker protection programs. The fiscal year 2008 budget request for MSHA is \$313.5 million, and 2,306 FTEs. The request will allow MSHA to continue implementing the historic MINER Act. This request also includes \$16.6 million specifically targeted to retain the 170 mine and safety enforcement personnel that were added in 2006 and 2007.

The budget would support MSHA's efforts to provide for the following: approval of emergency response plans; strengthening compliance for increased civil penalties; improving the safety of abandoned areas of mines and increasing the effectiveness of mine rescue teams.

This request will also enable MSHA to continue testing and evaluating promising new technologies that could be deployed in support of mine rescue operations.

The fiscal year 2008 request also includes \$490.3 million and 2,186 FTEs for OSHA. This request will enable OSHA to focus its enforcement efforts on high hazard industries that typically employ disproportionate numbers of low-wage, vulnerable workers.

The fiscal year 2008 budget request before this committee for the Employment Standards Administration is \$699.6 million and an FTE of 4,082. The request for ESA includes \$182.4 million, and 1,336 FTEs for the wage and hour division. The request for wage and hour includes funding for additional inspectors, enhanced enforcement in low waging industries, and a legislative proposal to increase civil monetary policies associated with the violation of child labor laws.

The ESA request also includes \$84.2 million and 625 FTEs for the Office of Federal and Contract Compliance Programs, OFCCP, to protect workers from discrimination by, obviously, Federal contractors. Another \$106.6 million and 867 FTEs are requested for the Office of Workers' Compensation Programs. ESA also requests an additional \$56.9 million and 369 FTEs for the Office of Labor-Management Standards.

For the Employee Benefits Security Administration, EBSA, which protects the health and retirement benefits of 150 million workers, the fiscal year 2008 budget request is \$147.4 million, and 855 FTE.

This request will enable EBSA to implement important regulations required under the Pension Protection Act, including making it easy for Americans to save for retirement, ensuring that the pension promises made to workers are kept, and that retirement security for workers is, indeed, maintained.

Then on your point, Mr. Chairman, as we all know, the United States is transitioning to a knowledge-based economy, closely intertwined with the worldwide economy. Our country's worker training programs need to keep pace with these developments. We need to equip workers with the skills needed to succeed in this new economic environment.

The fiscal year 2008 budget request includes \$8.3 billion and 1,196 FTEs for the Department's Employment and Training Administration, ETA. This request includes proposals for innovative reforms that will increase the quality of the training offered, as well as the number of workers trained.

The next priority is this Nation's commitment to our veterans must be honored. The Department is committed to providing returning veterans with the support needed to make the transition back to the non-military workforce a smooth and successful one.

So for the Department's Veterans' Employment and Training Service, the fiscal year 2008 budget request is \$228.1 million and 244 FTEs. This will enable VETS to maximize employment opportunities for veterans and protect their employment and re-employment rights.

## PREPARED STATEMENT

So, Mr. Chairman, the Department's fiscal year 2008 budget request will enable us to meet our key priorities. That is protecting workers, preparing workers for the 21st century workforce and economy, ensuring veterans' employment and re-employment rights, and maintaining fiscal discipline.

I will be happy to answer any questions.

Senator HARKIN. Yes, your statement, full statement will be made part of the record in its entirety.

Secretary CHAO. Thank you.

[The statement follows:]

## PREPARED STATEMENT OF HON. ELAINE L. CHAO

Good morning Mr. Chairman, Ranking Member Specter, distinguished Members of the Subcommittee, ladies and gentlemen. Thank you for the opportunity to appear before you today to present the fiscal year 2008 budget for the Department of Labor.

The total request for the Department in fiscal year 2008 is \$50.4 billion and 16,869 FTE, of which \$15.4 billion is before the Committee. Of that amount, \$10.6 billion is requested for discretionary budget authority. Our budget request will allow us to build on the accomplishments achieved in recent years and enable the Department to meet its critical priorities for fiscal year 2008, while helping to achieve the President's deficit reduction goals by reforming programs and reducing or eliminating ineffective or duplicative activities.

As the President has noted, our country's economy is strong and growing. We have seen:

- 42 months of uninterrupted job growth;
- 7.6 million new jobs created since August 2003;
- An unemployment rate that has fallen to 4.5 percent since June 2003;
- An increase in average hourly earnings of 4.1 percent over the past 12 months (before adjustment for inflation); and
- GDP growth of 3.1 percent in 2006.

These achievements are a tribute to the flexibility of our workforce and the dynamism of our economy. The Department's fiscal year 2008 budget will promote continued economic growth by strengthening the health, safety, and competitiveness of our Nation's vibrant workforce.

## RECENT ACCOMPLISHMENTS

As an introduction to the fiscal year 2008 budget, I would like to highlight some of the Department's recent accomplishments, which reflect the strong enforcement of worker protection laws and efforts to assist American workers. For example:

- In 2006, the Employee Benefits Security Administration achieved monetary results in the protection of workers' pension and health benefits that were 94 percent higher than in 2001.
- Since 2001, there has been a nearly 7 percent reduction in the fatality rate, an achievement that can be partially attributed to the Occupational Safety and Health Administration's enforcement and cooperative programs. The fatality rate among Hispanic workers has fallen by 18 percent during the same period. There has been a more than 13 percent reduction in the overall injury and illness rate since 2002.
- In 2006, as a result of the Wage and Hour Division's enforcement, more than 246,000 workers received \$172 million in back wages, including overtime. This is a 30 percent increase over the amount of back wages recovered in 2001.
- The Office of Federal Contract Compliance Programs has posted record results in enforcing equal opportunity rights for employees of Federal contractors, with an increase in financial recoveries of nearly 80 percent between 2001 and 2006. In 2006, OFCCP recovered \$52 million in back pay, salaries, and benefits for over 15,000 employees.
- The Employment and Training Administration has enhanced its services to American workers through innovative initiatives designed to link economic development, education and workforce development.

## FISCAL YEAR 2008 PRIORITIES

The Department's fiscal year 2008 budget seeks to build on the success of previous years. The budget features three overall priorities: protecting workers' safety and health; protecting workers' pay, benefits, pensions, and union dues; and increasing the competitiveness of America's workforce.

## PROTECTING WORKERS' SAFETY AND HEALTH

The 2008 budget includes \$1.5 billion in discretionary funds for DOL's worker protection activities. This funding level will enable the Department to continue its record-setting protection of workers' health, safety, pay, benefits and union dues.

*Mine Safety and Health Administration (MSHA)*

The fiscal year 2008 budget request for MSHA is \$313.5 million and 2,306 FTE. The request will allow MSHA to continue implementing the historic Mine Improvement and New Emergency Response (MINER) Act, the most sweeping mine safety legislation in 30 years.

Since the President signed the MINER Act of 2006, the Department has taken aggressive action to implement and enforce the Act. For example, we have:

- Established new policies regarding the approval of Emergency Response Plans and the creation of a Family Liaison program;
- Proposed regulations to increase the Civil Penalties for violations of safety and health standards;
- Issued information bulletins regarding the provision of post-accident breathable air to trapped miners and guidance for sealing abandoned areas of mines;
- Initiated rulemaking to develop new standards for Mine Rescue Teams;
- Coordinated the first meeting of the Belt Air and Conveyor Belt Materials technical study panel to review the use of belt air to ventilate the mine production area;
- Begun to aggressively hire and train 170 new mine safety enforcement personnel; and
- Issued an Emergency Mine Evacuation Final Rule (ETS).

The fiscal year 2008 budget will allow the Department to continue these efforts and improve the health and safety of all miners. The request includes \$16.6 million specifically targeted to retain the 170 coal enforcement personnel that were added in 2006 and 2007 in response to the increase in coal mine fatalities. The budget will support MSHA's efforts to provide for approval of Emergency Response Plans; strengthen compliance through increased civil penalties; improve the safety of abandoned areas of mines; and increase the effectiveness of mine rescue teams. The request allows MSHA to continue testing and evaluating promising new technologies that could be deployed in support of mine rescue operations.

*Occupational Safety and Health Administration (OSHA)*

The fiscal year 2008 budget request for OSHA is \$490.3 million and 2,186 FTE. The request provides resources to support 89,700 Federal and State safety and health inspections.

With an emphasis on enforcement, complemented by compliance assistance, OSHA will focus on those high-hazard industries where we typically find large numbers of non-English speaking workers. In fiscal year 2008, all elements of OSHA's intervention strategies—enforcement, training, compliance assistance, outreach, cooperative programs and guidelines—will be brought to bear to protect this vulnerable population. The request for OSHA includes \$4.6 million and 13 FTE to expand OSHA's Voluntary Protection Programs (VPP), a cooperative health and safety recognition program that has been very effective in reducing illness and injury rates. Employers participating in VPP achieve lost-time injury and illness rates that are 50 percent lower than their industry average.

## PROTECTING WORKERS' PAY, BENEFITS, AND UNION DUES

The Department will also continue its high priority programs to protect workers' pay, benefits, and union dues.

*Employment Standards Administration*

The Department's Employment Standards Administration (ESA) administers and enforces a variety of laws designed to enhance the welfare and protect the rights of American workers. The fiscal year 2008 budget request for administrative expenses for ESA is \$699.6 million and 4,082 FTE.

### *Wage and Hour Division*

The Wage and Hour Division is responsible for the administration and enforcement of a wide range of worker protection laws, including the Fair Labor Standards Act, Family and Medical Leave Act, Migrant and Seasonal Agricultural Worker Protection Act, worker protections provided in several temporary non-immigrant visa programs, and prevailing wage requirements of the Davis-Bacon Act and the Service Contract Act. These laws collectively cover virtually all private sector workers, as well as State and local government employees.

The fiscal year 2008 budget also includes resources to hire additional Wage and Hour investigators to strengthen enforcement resources for industries and workplaces that employ low-wage, immigrant workers. The budget also re-proposes legislation to increase civil monetary penalties associated with violation of child labor laws, raising the penalties from \$11,000 to \$50,000 for violations that result in the death or serious injury of youth in the workplace, and increasing the penalty to \$100,000 for willful or repeat violations that result in death or serious injury. The administration expects to transmit legislation to the 110th Congress shortly, and urges Congress to act swiftly to pass it.

The fiscal year 2008 budget request for the Wage and Hour Division totals \$182.4 million and 1,336 FTE, which excludes \$31.0 million in estimated fee revenue from DOL's portion of the H-1B visa fraud prevention fee authorized by the 2004 H-1B Visa Reform Act. Given strict statutory limits on the use of these funds DOL has been unable to spend more than \$5 million in any single year and entered 2007 with more than \$60 million in unspent balances. The fiscal year 2008 budget cancels \$50 million of these balances and amends the Immigration and Nationality Act to permit a more effective use of the fraud prevention fees collected under this provision going forward.

### *Office of Federal Contract Compliance*

The fiscal year 2008 budget request for the Office of Federal Contract Compliance Programs (OFCCP) totals \$84.2 million and 625 FTE. OFCCP is responsible for ensuring equal employment opportunity and non-discrimination in employment for businesses contracting with the Federal Government. OFCCP carries out this mandate by conducting compliance evaluations to identify instances of systemic discrimination in the workplace, taking appropriate enforcement action, and providing relevant and effective compliance assistance programs. During fiscal year 2008, OFCCP will use its Active Case Management and Functional Affirmative Action Programs to target non-compliant contractors and continue to improve the effectiveness of OFCCP's enforcement activities, meaning more workers will be protected.

### *Office of Workers' Compensation Programs*

The fiscal year 2008 discretionary budget request for administration of the Office of Workers' Compensation Programs (OWCP) totals \$106.6 million and 867 FTE to support the Federal Employees' Compensation Act (FECA) (\$93.4 million) and the Longshore and Harbor Workers' Compensation program (\$13.2 million).

The OWCP budget also includes mandatory funding totaling \$104.7 million (including \$55.4 million for HHS/NIOSH) and 275 FTE to administer Part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), and \$56.9 million and 189 FTE for Part E of the act. EEOICPA provides compensation and medical benefits to employees or survivors of employees of the Department of Energy and certain of its contractors and subcontractors, who suffer from a radiation-related cancer, beryllium-related disease, chronic silicosis or other covered illness as a result of work at covered Department of Energy or DOE contractor facilities.

Lastly, OWCP's fiscal year 2008 budget includes \$37.6 million in mandatory funding and 201 FTE for its administration of Parts B and C of the Black Lung Benefits Act, and \$52.3 million and 127 FTE in FECA Fair Share administrative funding.

The 2008 budget includes two legislative proposals affecting OWCP programs that play a critical role in protecting workers' economic security, by providing monetary and medical benefits to Federal employees and coal miners whose ability to work has been diminished by an occupational injury or illness. The first re-proposes reforms to the Federal Employees Compensation Act to update its benefit structure, adopt best practices of State workers' compensation systems, and strengthen return-to-work incentives. This proposal is expected to generate Government-wide savings of \$608 million over 10 years. The second is a proposal to restructure, and eventually retire, the mounting debt of the Black Lung Disability Trust Fund—a debt that now approaches \$10 billion.

#### *Office of Labor-Management Standards*

The fiscal year 2008 budget request for the Office of Labor-Management Standards (OLMS) totals \$56.9 million and 369 FTE. OLMS enforces provisions of Federal law that establish standards for union democracy and financial integrity. OLMS conducts investigative audits and criminal investigations for embezzlement and other financial mismanagement; conducts civil investigations of union officer elections and supervises remedial elections where required; administers statutory union financial reporting requirements; and provides for public disclosure of filed reports. OLMS also administers employee protective provisions created under Federal transit legislation.

The resources requested will allow OLMS to continue to further the goals of financial integrity, union democracy, and transparency. The budget also supports legislation that would authorize OLMS to impose civil money penalties on unions and others that fail to file required financial reports on a timely basis.

#### *Employee Benefits Security Administration*

The Department's Employee Benefits Security Administration (EBSA) protects the integrity of pensions, health plans, and other employee benefits for more than 150 million workers. The fiscal year 2008 budget request for EBSA is \$147.4 million and 855 FTE. The request includes a \$5.5 million increase to be supplemented with \$2.5 million of agency-absorbed costs to complete the replacement of EBSA's outdated, paper-based ERISA Filing and Acceptance System, known as EFAST. I note that the amount of the fiscal year 2008 EFAST2 funding request may be reduced pending the final resolution of EFAST2 funding in fiscal year 2007, and we appreciate the opportunity to continue working with the committee on this important project. The new electronic filing system for Form 5500 reports will strengthen the protection of employee benefits by greatly reducing processing times for Form 5500 filings and improving the reliability of Form 5500 data. By making data on the funding of pension and other benefit plans more transparent and accessible, this new system will support the President's efforts to strengthen retirement security for the Nation's workers and retirees.

#### *Pension Benefit Guaranty Corporation*

The Pension Protection Act of 2006 made important structural reforms to the defined benefit pension system, but further premium changes are needed to restore long-term solvency to the pension insurance program. The President's fiscal year 2008 budget proposes to adjust insurance premiums paid by underfunded pension plans to address the nearly \$19 billion gap between the liabilities and assets of the Pension Benefit Guaranty Corporation (PBGC). Although PBGC will be able to pay benefits for some years to come, it is projected to be unable to meet its long-term obligations under current law. The proposed reforms would improve PBGC's financial condition and safeguard the future benefits of workers and retirees.

### PREPARING WORKERS FOR NEW OPPORTUNITIES

#### *Reforming the Workforce Investment System*

The fiscal year 2008 budget request for the Department's Employment and Training Administration (ETA) is \$8.3 billion in discretionary funds and 1,196 FTE, not including the 120 FTE associated with the PERM fee legislative proposal. Through innovative reforms, the budget request for ETA will allow the Department to increase the competitiveness of the American workforce in a knowledge-based economy.

The United States competes in a global economy that is far different from the international markets of the past. As our Nation's economy and businesses transform to meet the challenges of the 21st century, so too must the government systems and structures that support our economic growth and job creation.

The President has sought to transform worker training programs into a demand-driven system that prepares workers for jobs in growth sectors of the economy. The workforce investment system should recognize and strengthen workers' ownership of their careers, and provide more flexible resources and services designed to meet their changing needs.

American workers will need higher levels of education and skills than at any time in our history, as evidenced by the fact that almost 90 percent of new jobs in high-growth, high-wage occupations are expected to be filled by workers with at least some post-secondary education. However, the current workforce investment system does not provide the necessary educational and training opportunities for workers. Too much money is spent on competing bureaucracies, overhead costs, and unneces-

sary infrastructure, and not enough on meaningful skills training that leads to employment opportunities and advancement for workers.

To increase the quality of training offered, as well as the number of workers trained, the Department proposes legislative reforms to consolidate funds for the following programs into a single funding stream:

- Workforce Investment Act (WIA) Adult Program;
- WIA Dislocated Worker Program;
- WIA Youth Program; and
- Employment Service programs (including Employment Service formula grants, labor market information grants, and grants for administration of the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit).

States would use these funds primarily to provide Career Advancement Accounts (CAAs) to individuals who need employment assistance. CAAs are self-directed accounts of up to \$3,000, an amount sufficient to finance approximately 1 year's study at a community college. The accounts could be renewed for one additional year, for a total 2-year account amount of up to \$6,000 per worker. CAAs would be used to pay for expenses directly related to education and training. The accounts would be available to both adults and out-of-school youth entering the workforce or transitioning between jobs, and incumbent workers in need of new skills to remain employed. The funds would also be used by States to provide basic employment services such as career assessment, workforce information, and job search assistance to job seekers. By removing bureaucratic restrictions that can prevent workers from being trained, increasing the flexibility of State and local officials to shift funding to where it is most needed, and requiring the majority of dollars in the system to be spent on training instead of infrastructure, these reforms will significantly increase the number of individuals who receive job training and attain new and higher-level job skills.

#### *Community-Based Job Training Initiative*

The fiscal year 2008 budget provides \$150 million for the fourth year of grants under the President's Community-Based Job Training Initiative. This competitive grant program leverages the expertise of America's community colleges and takes advantage of the strong natural links between community colleges, local labor markets and employers to train workers for jobs in high-demand industries. In October 2005, the Department awarded the first grants totaling \$125 million to 70 community colleges in 40 States. A second competition for Community-Based Job Training Grants was held in the summer of 2006, and in December 2006, the Department awarded \$125 million in grants to 72 entities in 34 States. These grants will be used to increase the capacity of community colleges to provide training in local high growth, high demand industries and train new and experienced workers for jobs in these industries. The Department plans to hold the competition for the fiscal year 2007 Community-Based Job Training Grants in the summer of 2007.

#### *YouthBuild*

In the summer of 2006, Congress unanimously passed the YouthBuild Transfer Act to transfer the YouthBuild program from the Department of Housing and Urban Development to the Department of Labor, as recommended by the White House Task Force on Disadvantaged Youth. The fiscal year 2008 budget includes \$50 million for YouthBuild to provide competitive grants to local organizations for the education and training of disadvantaged youth age 16–24. Under these grants, youth will participate in classroom training as well as learn construction skills by helping to build affordable housing. Within DOL, YouthBuild will take advantage of better connections to the workforce investment system, closer association with occupational safety and health and youth employment protection programs, stronger ties to Job Corps and apprenticeship programs, new links to the President's High Growth Job Training Initiative, improved access to the postsecondary and community college system, and stronger connections to employers and local labor markets.

#### *Reintegration of Ex-Offenders*

The fiscal year 2008 budget requests \$39.6 million for a program that brings together the President's Prisoner Re-entry Initiative (PRI) and the Responsible Reintegration of Youthful Offenders (RRYO) program. This new consolidated program would avoid the duplication of efforts that currently exists between PRI and RRYO and adopt the practices of these two efforts that have shown great promise in boosting employment and reducing recidivism among ex-offenders. Through competitively awarded, employment-centered grants that holistically address the multiple challenges facing offenders upon their release, the Reintegration of Ex-Offenders program would tap the unique strength, networks, and relationships of faith-based and

community organizations to reach out to ex-offenders to help them find jobs and build new lives.

*Strengthening Unemployment Insurance Integrity and Promoting Re-Employment*

The fiscal year 2008 budget continues the administration's efforts to ensure the financial integrity of the Unemployment Insurance (UI) system, and help unemployed workers return to work promptly. Our three-pronged approach includes:

- A package of legislative changes that would prevent, identify, and collect UI overpayments and delinquent employer taxes. These changes include: allowing States to use a small amount of recovered overpayments and collected delinquent taxes to support additional integrity efforts; authorizing the U.S. Treasury to recover UI benefit overpayments and certain delinquent employer taxes from Federal income tax refunds; requiring States to impose a penalty on UI benefits that individuals obtain through fraud and using those funds for integrity activities; and requiring employers to include a “start work” date on New Hire reports to help identify persons who have returned to work but continue to receive UI benefits. We estimate that these legislative proposals would reduce overpayments and increase recoveries and delinquent tax collections by a total of \$2.3 billion over 5 years.
- A \$40 million discretionary funding increase to expand Reemployment and Eligibility Assessments (REAs), which review UI beneficiaries' need for reemployment services and their continuing eligibility for benefits through in-person interviews in One-Stop Career Centers. This initiative already has yielded quicker returns to work for UI beneficiaries. We estimate that annual benefit savings of \$205 million could result from this investment.
- A legislative proposal to permit waivers of certain Federal requirements to allow States to experiment with innovative projects aimed at improving administration of the UI program, and speeding the reemployment of UI beneficiaries.

We urge the Congress to act on these important proposals to strengthen the financial integrity of the UI system and help unemployed workers return to work.

*Senior Community Service Employment Program*

The fiscal year 2008 budget requests \$350 million for the Senior Community Service Employment Program (SCSEP). The Department is pleased that the recently reauthorized Older Americans Act includes many of the administration's reform proposals to streamline SCSEP and increase the number of persons who may enjoy the benefits of unsubsidized employment. The Department expects that legislative reforms will improve program efficiency and reduce costs compared to the previous program design. We are optimistic that the important reforms included in SCSEP reauthorization—including the elimination of inappropriate fringe benefits, caps on the duration of program participation, additional flexibility to provide training, and increased emphasis on placement in unsubsidized employment—will allow SCSEP to use funds more efficiently, serve more participants per dollar, and allow participants to achieve greater economic self-sufficiency than ever before.

*Job Corps Transfer*

The budget includes \$1.5 billion to operate a nationwide network of 123 Job Corps centers in fiscal year 2008. Job Corps provides training to address the individual needs of at-risk youth and ultimately equip them to become qualified candidates for the world of work. In the fiscal year 2006 appropriation act, the Congress directed the Department to transfer the Job Corps program out of the Employment and Training Administration (ETA) into the Office of the Secretary. The 2008 budget proposes to return the program to ETA, where it had been administered for more than 30 years, to ensure close coordination with the other job training and employment programs administered by ETA, including the YouthBuild program. Moving the program back to ETA will ensure these young people have access to the principal experts on labor markets as well as other youth employment programs.

OTHER PROGRAMS

*Veterans' Employment and Training Service*

This Nation's commitment to our veterans must be honored. No veteran should return home without the support that is needed to make the transition back to private life a smooth and successful one. For the Department's Veterans' Employment and Training Service (VETS), the fiscal year 2008 budget request is \$228.1 million and 244 FTE. This will enable VETS to maximize employment opportunities for veterans and protect their employment and reemployment rights.

The \$161.9 million requested for State grants will help over approximately 700,000 veterans seeking reemployment services. The fiscal year 2008 budget in-

cludes \$23.6 million for the Homeless Veterans Reintegration Program (HVRP), allowing the program to provide employment and training assistance to an estimated 15,100 homeless veterans. In addition, the budget requests an additional \$2.5 million to meet the increased demand for Transition Assistance Program (TAP) services. It is projected that the number of departing service members receiving TAP Employment Workshops will increase from 160,000 in fiscal year 2007 to 170,000 in fiscal year 2008. TAP Workshops play a key role in reducing jobless spells and helping service members transition successfully to civilian employment. The fiscal year 2008 request will also enable VETS staff to carefully monitor our performance in administering the Uniformed Services Employment and Reemployment Rights Act (USERRA) to protect the civilian job rights and benefits of veterans and members of the armed forces, including members of the Guard and Reserve and others.

#### *Bureau of Labor Statistics*

In order to maintain the development of timely and accurate statistics on major labor market indicators, the fiscal year 2008 budget provides the Bureau of Labor Statistics (BLS) with \$574.4 million and 2,431 FTE. This funding level provides BLS with the necessary resources to continue producing sensitive and critical economic data, including the Consumer Price Index (CPI) and the monthly Employment Situation report. The CPI is a key measure of the Nation's economic well-being that directly affects the income of millions of Americans. To ensure that the CPI is accurate and up-to-date, the budget includes funding of \$10.4 million to continually update the housing and geographic samples that underlie the index to ensure that these samples fully incorporate the most recent demographic and geographic trends and changes. The current sample was derived from the 1990 Census and has not been updated since the late 1990s.

#### *Office of Disability Employment Policy*

The fiscal year 2008 budget request provides the Office of Disability Employment Policy (ODEP) with a total of \$18.6 million and 40 FTE. The fiscal year 2008 budget reflects a decrease in ODEP's grantmaking function, which duplicates those of other Federal agencies like the Department of Education. The fiscal year 2008 budget focuses ODEP on its core and critical mission of providing national leadership in developing disability employment policy and influencing its implementation to increase employment opportunities and the recruitment, retention and promotion of people with disabilities.

#### *Bureau of International Labor Affairs*

The request for the Bureau of International Labor Affairs (ILAB) in fiscal year 2008 is \$14.1 million and 58 FTE. In recent years, ILAB has had a very large grantmaking function, duplicating activities that are carried out by State, USAID, and other agencies with a larger role in international affairs. The budget returns ILAB to its core mission of developing international labor policy and performing research, analysis, and advocacy. It also includes \$1.5 million to allow ILAB to monitor the use of forced labor and child labor in violation of international standards, as required in the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005.

The requested funding levels would allow ILAB to implement the labor supplementary agreement to NAFTA and the labor provisions of trade agreements negotiated under the Trade Act of 2002, participate in the formulation of U.S. trade policy and negotiation of trade agreements, conduct research and report on global working conditions, assess the impact on U.S. employment of trade agreements, and represent the U.S. Government before international labor organizations, including the International Labor Organization.

ILAB will continue to implement ongoing efforts in more than 70 countries funded in previous years to eliminate the worst forms of child labor and promote the application of core labor standards.

#### *Office of the Solicitor*

The fiscal year 2008 budget includes \$103.1 million and 643 FTE for the Office of the Solicitor (SOL). This amount includes \$95.5 million in discretionary resources and \$7.7 million in mandatory funding. The Solicitor's Office provides the legal services that support the Department, including the Department's enforcement programs. This appropriation level will allow SOL to provide legal services for the nearly 200 laws the Department must enforce, including new legislation that Congress recently passed to strengthen mine safety and retirement security. The fiscal year 2008 budget includes \$3.5 million and 23 FTE to provide additional legal support for DOL client agencies, and \$4.4 million to support 30 FTE who are currently providing certain auxiliary administrative services to client agencies that are closely re-

lated to legal services provided by SOL. The requested appropriation level is essential to allow SOL to fulfill its primary mission of ensuring that the Nation's labor laws are forcefully and fairly applied.

#### *Women's Bureau*

The fiscal year 2008 budget includes \$9.8 million and 60 FTE for the Women's Bureau. This budget will allow the Women's Bureau to continue its mission of designing innovative projects addressing issues of importance to working women and providing information about programs and policies that help women succeed in the 21st century workplace.

#### *President's Management Agenda and Department-wide Management Initiatives*

Before I close today, Mr. Chairman, I also want to highlight the Department's ongoing efforts to implement the President's Management Agenda. In August 2001, President Bush sent to Congress his President's Management Agenda (PMA), a strategy for improving the management and performance of the Federal government. The agenda called for focused efforts in the following five government-wide initiatives aimed at improving results for citizens: Strategic Management of Human Capital; Competitive Sourcing; Improved Financial Performance; Expanded Electronic Government; and budget and Performance Integration. DOL is also responsible for three of the PMA initiatives that are found only in selected departments: Faith-Based and Community Initiatives; Real Property Asset Management; and Eliminating Improper Payments.

I am proud to say that the Department was the first Cabinet agency to earn "green" ratings in all five government-wide PMA scorecards. By the close of fiscal year 2006, the Department had achieved two additional "green" ratings, for its efforts to Eliminate Improper Payments and support the President's Faith-Based and Community Initiative. In December 2006, DOL was honored with the President's Quality Award for excellence in Expanded Electronic Government, in addition to previous presidential honors received for management excellence.

The Program Assessment Rating Tool, or PART, is central to our efforts at the Department of Labor to improve the performance of our programs. To date, 32 DOL programs have been assessed through the PART. The PART assessments have not only been useful to informing the public and policy makers of our programs' strengths and weaknesses, but they have provided our programs and their managers a systematic method of self-assessment. A PART review helps inform both funding and management decisions aimed at making programs more effective. The Department is actively implementing program improvements identified through PART assessments and its 5-year plan to conduct re-assessments of programs that have previously undergone a PART review.

#### CONCLUSION

With the resources we have requested for fiscal year 2008, the Department will continue its strong enforcement of worker protection laws, provide innovative programs to increase the competitiveness of our Nation's workers, secure the employment rights of veterans, and maintain fiscal discipline.

Mr. Chairman, this is an overview of the programs we have planned at the Department of Labor for fiscal year 2008.

I am happy to respond to any questions that you may have.

Thank you.

#### OTTUMWA JOB CORPS CENTER

Senator HARKIN. We will start with a round of questions.

First of all, Madam Secretary, I started out by congratulating you and thanking you for your work on getting these three Job Corps things designated in New Hampshire, Wyoming, and in Iowa; Ottumwa, Iowa. But we hear things from different sources, and just the other day I heard from a source that said that maybe the Ottumwa Job Corps center is going to be delayed.

Secretary CHAO. Oh, we hope not.

Senator HARKIN. Oh, okay. I just want reassurance. I hear it might be delayed perhaps up to 8 years.

Secretary CHAO. Oh, I hope not. That is not our intent. We are going ahead with the design and construction.

Senator HARKIN. Okay.

Secretary CHAO. Each Job Corps center costs about \$40 million.

Senator HARKIN. Right.

Secretary CHAO. There are different phases. So I do not see any delays in that.

Senator HARKIN. In all three of them?

Secretary CHAO. We do not anticipate delays. Unless there are funding issues. But it is never the practice to fund 100 percent up front anyway.

Senator HARKIN. Okay. But when are you going to—

Secretary CHAO. I think that—

Senator HARKIN. When are you going to finalize the Ottumwa center? I do not know about the other two, but—

Secretary CHAO. There are design—there are planning, feasibility studies, design, construction. So it is a multi-year project. We do not anticipate delaying it. It is on target, as far as I know.

Senator HARKIN. Okay.

Secretary CHAO. We are proceeding with planning—

Senator HARKIN. Yes.

Secretary CHAO [continuing]. The satellite facility in Iowa. We know, also, the priorities of this committee on these issues.

Senator HARKIN. Yes. Well, I appreciate that. I was told, correct me if I am wrong, that the Ottumwa is to be looking at opening sometime by 2010. Is that—

Secretary CHAO. That might be possible. It takes about 4 years to go through the planning. Because there is—you have to go—it takes about a year for the planning. It takes another year for the design. It takes a couple of years for construction. But those are usual planning—

Senator HARKIN. Okay. But there is nothing—

Secretary CHAO [continuing]. Time lines, so—

Senator HARKIN [continuing]. That you know of that is going to be delaying this at all.

Secretary CHAO. No, Mr. Chairman. I would also assure you that, again, we know how important this—

Senator HARKIN. Okay. Thank you.

Secretary CHAO [continuing]. Issue is.

#### FMLA ENFORCEMENT

Senator HARKIN. Thank you very much. There was one—oh, yes. I have been contacted by a number of Iowans who have told me that Wage and Hour in Iowa is telling them that if they belong to a union, they cannot ask Wage and Hour to intervene on their behalf in resolving Family Medical Leave Act enforcement. Rather, it is up to them to go through the labor management grievance process instead. Then even if they cannot resolve the situation satisfactorily, they still cannot even appeal that decision to Wage and Hour.

My question is: Is this action by Wage and Hour in Iowa coming from some DOL directive that I do not know about, and that we have not seen?

Secretary CHAO. I am not aware of that complaint. I will be more than glad to look into it.

Senator HARKIN. Would you, please?

Secretary CHAO. There is a lot of—Family Medical Leave was, obviously, passed in 1993. Regulations are promulgated. There have been a number of court challenges. It has been very confusing. But I have not heard that one. So I will be more than glad to take a look at that.

Senator HARKIN. I wish you would. I would like to resolve this. Do you feel that DOL is doing what it can to proactively improve overall FMLA compliance and employee understanding of their rights?

Secretary CHAO. Enforcement of the law is always our priority. So we are always very concerned when there are any lapses or any non-compliance. We enforce the law.

Senator HARKIN. Well, let us look at that one in Iowa and see what is happening there.

Secretary CHAO. I will do so.

#### FUNDING FOR INTERNATIONAL CHILD LABOR

Senator HARKIN. I would appreciate that. International child labor. One of my priorities as you know. Has been for a long time. The fiscal year 2008 budget requests \$14 million for international labor affairs. A decrease of \$58.4 million from last year. An 80 percent cut.

Well, that is just like tearing it out. This would cause reduction of 27 FTEs, and significant reduction in grants for technical assistance on ending international child labor. Madam Secretary, could you, again, just tell us why you are proposing to cut funds for fighting international child labor? What is the reasoning behind this?

Secretary CHAO. We care about this issue. Mr. Chairman, I think we have talked about this before. We are just going to have to respectfully disagree.

ILAB was an organization that was fairly small. I know that in 1996, this committee gave ILAB about \$76 million, \$74 million. In 2000, it increased the budget further to about \$147 million.

Senator HARKIN. That was under his chairmanship.

Secretary CHAO. We know this is a priority, but the administration respectfully disagrees with the mission of this organization. We believe that it should be pared back to its original mission of providing technical assistance, providing participation at the ILO, working on advocacy and increasing core labor standards. That grant making is not really a function that was the original intent of this organization. But we care about this issue. Obviously, when given the money, we have used it wisely.

Senator HARKIN. But it is all right to care about it.

Secretary CHAO. Yes.

Senator HARKIN. We all care about it. But we are trying to do something about it. Quite frankly, the Department of Labor has done some really good things in the past, both before you and in your earlier time—I mean in your first few years. But lately, it seems like we are just totally backing off of this. At a time when the ILO and others, they are making—they are saying, “Things are—you know, things are happening. These things take time.”

Once we started on this back in the 1990s, and we kept at it, as I said, we have actually seen some discernible progress. Also, in the past couple of years, the Department of State has come to the De-

partment of Labor to carry out projects and workers' rights, in relation to CAFTA, the Central American Free Trade Agreement.

So when I see something like that, obviously, the Department of State is saying, "You have the expertise. You know how to do it." They come to you to ask you to handle it. So it is not that somebody else is going to pick this up someplace. It is the Department of Labor. I just do not think that it is befitting a great Nation like ours, that has put so much stock in human rights and the value of children, to make sure that children are not abused, and make sure that they get a decent education, and that they are not exploited.

I think it is one of the best faces that America can give the rest of the world. That is to help try to end this exploitative labor of children in other countries. I visited some of these things around the world. The reverberations are great.

When we work on that and—and I am just telling you, it has been one of the best, I think, reflections of America anywhere in the world. We may respectfully disagree on it, but this is something that this committee has charged the Department of Labor to do, and we will again.

Secretary CHAO. Yes, I understand.

Senator HARKIN. I am just sorry to see that we are having this conflict on it. Because I just do not think we want to back down on that one and back off of what we have been doing around the world.

#### CAFTA FUNDING

Secretary CHAO. We agree with you on the goals. I think the disagreement, perhaps, may be that we are just not quite sure this is the right agency or the organization with which to channel these funds.

On the State Department, the CAFTA, we got additional funding for that. The money was——

Senator HARKIN. They transferred money over.

Secretary CHAO. Yes. It was given to us. Yes.

Senator HARKIN. They gave you money——

Secretary CHAO. Right.

Senator HARKIN [continuing]. To do it.

Secretary CHAO. But it was given to State. No. I agree with you. So the State Department gave it to us.

Senator HARKIN. Yes.

Secretary CHAO. We will do the same thing.

Senator HARKIN. You seem to indicate——

Secretary CHAO. We will do the same thing. We were given the money. We will do the same thing.

Senator HARKIN. We are going to give you money, and we are going to ask you to enforce it.

Secretary CHAO. We will do so.

Senator HARKIN. All right, Madam Secretary. Well, you know that we are going to be tough on it. Well, my time has run out. I am going to yield this round and I will yield to Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

Secretary Chao, at the outset, I would associate myself with the remarks that Senator Harkin made about the international child

labor issue. He has emphasized it sufficiently. But I just want you to know that he has my concurrence.

#### JOB TRAINING FUNDING

On the issue of the cuts which are made for job training and Job Corps, and the prisoner reentry initiative, and reintegration of ex-offenders, Madam Secretary, I would emphasize that the increase in crime across the country, and especially juvenile crime, really underscores the need for those programs.

I think that our budget recommendations will reflect that, but I want you to know how deeply at least I feel about it. As you know, I have had a lot of experience in the field of being a district attorney of a city like Philadelphia, and seeing the kind of crime problems. It is characteristic of cities across the country.

When you have job training, you are trying to provide the background to take these at-risk youth off the streets. When you are talking about reentry, it has been a problem that I have been intimately concerned with for decades. The recidivism rates are extremely high because of the lack of job training, and releasing functional illiterates from jail without a trade or skill—so they go back to a life of crime. It would be surprising if they did not. So these reentry programs and the legislation that is pending now on second chance, these, I think, are of the highest priority.

#### PANDEMIC FLU

Let me ask you now about the issue of pandemic flu. It could be a catastrophe of phenomenal proportions. We have had a series of hearings on the subject and, to date, this subcommittee has included \$5.4 billion for pandemic flu.

There was a petition filed in December 2005 for the Department of Labor to issue standards for public health care workers in the event of such a pandemic. On February 26, your Department denied the petition on the grounds that no human influenza virus exists at this time.

Shouldn't there be protections in place to protect workers, in case there is a pandemic? Shouldn't we be prepared. Every day you see an article on the H5N1 virus, though regrettably, they are in the back pages of the papers. I believe yesterday Pakistan was going to submit information on the virus, but in a limited extent. I would ask you to take another look at this regulation.

Secretary CHAO. I will do so. There is a government-wide task force on pandemic flu. So we, through, OSHA, have participated in this government-wide interagency workforce, and have been a very active participant. We have issued five significant guidance documents. I will take a look at that.

Senator SPECTER. Well, it looks to me as if the rejection of that petition may have been decided by someone at a lesser level than the Secretary.

Secretary CHAO. The emergency—I did not quite understand the question.

## EMERGENCY STANDARD FOR HEALTH CARE WORKERS

Senator SPECTER. The petition was for an emergency standard to protect health care workers in the event of a pandemic. So take another look at it.

Secretary CHAO. I will take another look, but I think the original premise was that it was not—there are very strict guidelines as to what constitutes an emergency standard. Based on our review of the situation, it was not deemed to fit those quite—I mean it has to be a—well, I am not being very eloquent. But it has to be—there are emergency standards, there are rules and criteria to when that should be issued. It has to be like a pandemic.

I do not want to defend that without looking—

Senator SPECTER. Do we have to be in the middle of the pandemic before the rules are issued?

Secretary CHAO. Pretty near it. But as ridiculous as that sounds, I do not want to talk any further. I will take a look at—

Senator SPECTER. Now we have finally found something we agree upon. That is as ridiculous as it sounds.

Secretary CHAO. Yes. I will take another look at that.

## OSHA'S SUSAN HARWOOD GRANTS

Senator SPECTER. Okay. Speaking of OSHA, why is the administration proposing to eliminate the \$10 million OSHA program for worker training and education? Have these programs been unsuccessful?

Secretary CHAO. I suppose you mean the Susan Harwood grants. That was a very narrow, a very—a targeted—it was a very narrow set of grants given out to a very narrow constituency. We are concerned about worker training. We thought that with a wider approach through more—a web-based educational approach, more outreach, and efforts to other groups, to a larger array of groups, would be a more effective way to use those education grants.

Senator SPECTER. Well, we may have a disagreement there, too.

Mr. Chairman, I know my red light is on, but I have two more questions, and that will eliminate the need for a second round. If I may?

Senator HARKIN. I have some that I want to follow-up on, but go ahead.

## FUNDING FOR MIGRANT JOB TRAINING

Senator SPECTER. Okay. Well, I will proceed here. The funding for the migrant and seasonal farm workers program has been eliminated. Almost \$80 million. We are right in the middle of our new immigration bill, which is a very high priority for the President. Migrant job training is a big part of that. We are dealing with gigantic costs on employer verification and border patrol.

Why the repeated effort to eliminate that program when every time you do, both the House and Senate come back and insist on it?

Secretary CHAO. The whole issue of trying to integrate migrant workers into the work force is one that we both share. The question is how best to do that. This administration's philosophy has always been to take specific programs that are segregating workers into

separate funding streams and finding that that is not a very effective way of helping workers, when there is a whole nationwide publicly funded network of one-stop career centers, with all its full array of services that will be much better to help workers access the professionals that are in this system as well as the full array of funding programs. So the intent is to integrate more fully the migrant workers into the workforce development system.

Senator SPECTER. Well, do not the migrant farm workers have very unique needs, contrasted with the rest of the work force?

Secretary CHAO. Well, the program—we understand how important this is to members of this committee and to others on this committee. But there does seem to be some disagreement as well. We have found that this program, aside from the reason that I just gave previously, has been very often used as an income support program. We want to be able to use these funds to help migrant workers find better jobs, be able to transition into other opportunities on a seasonal basis, if they—if that were to occur.

Senator SPECTER. Well, I do not think it should be an income support program. But I think you could eliminate that and still have the training.

#### H-2B LABOR CERTIFICATION

The final question I have for you, Madam Secretary, relates to the H-2B labor certification. We are in the middle of a great human cry from some of the leading entrepreneurs of the world. Bill Gates is leading the charge on this.

The current regulations permit employers to file applications only 120 days in advance of their seasonal needs. Your Department's regulations call for an adjudication, a decision, within 30 days. Now the processing takes more than 100 days.

Two questions. Can you reduce or eliminate that delay in applications? Should we allow employers to file their applications more than 120 days in advance of their seasonal needs, in light of the delays in your Department's decisions on the applications?

Secretary CHAO. You are referring to the H-2A, H-2B program or to the H-1—

Senator SPECTER. To the H-2B labor certification—

Secretary CHAO. Okay. The H-2B.

Senator SPECTER [continuing]. Program.

Secretary CHAO. Right. Unfortunately, we have had an increase in backlog in the H-2B program this year. As background, let me say that when we first came into this Department, we had tremendous backlogs in the PERM and in other visa programs.

We have worked diligently to work down the backlog. This particular year, there has been a 40 percent increase in the number of H-2B visas. We do have a backlog in Georgia, in that processing center.

We have diverted additional personnel and additional resources to that region in an effort to work down the backlog. But the real problem is the cap that occurs on this visa and the time line that is involved, of which we are not in control. We play a very small part in this whole visa/immigration issue. Most of it is over at the Department of Homeland Security.

Where it is possible, where we have control, we have been able to decrease the backlog from over 100 days to process to—to be a little bit under 30.

Senator SPECTER. Well, Madam Secretary, I can understand the problem of the backlog, especially when the funding for your Department is cut.

Secretary CHAO. Well, this comes out of a different fund. That is not—it does not come out of—in fact, we have requested funding every year for the last 5 years, and the Congress has not given us additional funding. We have been underfunded for about \$8 million.

Senator SPECTER. It does not come out of your overall budget?

Secretary CHAO. Some of that is—we have asked for, like, \$37 million and \$46 million, and we have been given about \$37 million.

Senator SPECTER. Well, is it not a part of your \$10 billion-plus appropriations?

Secretary CHAO. Yes. It is.

Senator SPECTER. Well, if you would submit a bigger budget request to OMB, or if you could get OMB to give you more money, you would have more money.

Secretary CHAO. It is the President's request. The President has traditionally asked for about \$46 million. We have gotten about \$37 million for the last 5 years.

Senator SPECTER. Well, you make the request, but it is a question of how we slice up the pie. If the pie were a little bigger, we would be able to give more to your requests. That means you have to come in here and bang the table. Before that, you have to have practice at OMB banging the table.

Secretary CHAO. Well, we went over there——

Senator SPECTER. You might even go from banging the table to banging heads. You are a strong secretary.

Secretary CHAO. Well, we have succeeded at OMB. We have requested about \$45 million, \$47 million for the last 3 years. The enacted was about \$37 million.

Senator SPECTER. Well, we will continue to work with you, Madam Secretary. We have been for a long time. These are big, big problems. We want to do our best to try to solve them.

Secretary CHAO. Thank you very much.

Senator SPECTER. Thank you very much. Thank you, Mr. Chairman.

Senator HARKIN. Thank you, Senator Specter. Madam Secretary, I just have a few areas I would like to also go through with you. You just mentioned something I wrote down about narrow grants to narrow constituencies. I want to get into an area——

Secretary CHAO. I did not——

#### CONGRESSIONAL EARMARKS

Senator HARKIN [continuing]. That has gotten a lot of publicity lately, as it concerns Congress. I am not going to single you out, Madam Secretary. I am going to bring this up with every secretary that appears here. Secretary of Health and Human Services. Secretary of Education. Those are the three under our jurisdiction. That has to do with earmarks. Earmarks.

In President Bush's State of the Union address this year, he stated, and I quote, "Next, there is the matter of earmarks. These special-interest items are often slipped into bills at the last hour, when not even C-SPAN is watching. The time has come to end the practice."

Now for the record, I do not think that more than 1 percent—almost all the earmarks are less than 1 percent. One-third to two-thirds of 1 percent of all that we appropriate here, but they have really gotten hit by the President.

#### HIGH-GROWTH JOB TRAINING GRANTS

On the other hand, a recent Congressional Research Service report found that 90 percent of the funds under DOL's high-growth job training initiative were awarded non-competitively. Ninety percent. In other words, over the past 5 years, DOL earmarked more than \$250 million without any competition and without any transparency.

Now I understand that Federal regulations allow for the awarding of sole-source contracts in certain situations. However, earmarking 90 percent of these funds raises some very serious questions.

Now I just drafted a letter for the inspector general, Mr. Heddell, of the Department of Labor. I said, "Dear Mr. Heddell, I am writing today to request that you look into the Department's practices of awarding non-competitive awards under its high-growth job training initiative." As I said, "As you may know, the Congressional Research Service recently analyzed the Department's funding practices under this initiative, and found that 90 percent of the funds were awarded through non-competitive awards. These actions resulted in more than \$250 million in funding being awarded without full and open competition."

"I understand"—and this is my letter—"I understand it is sometimes maybe in the public's best interest to award funds on a non-competitive basis. For example, if the services are available from only one responsible source and no substitute will suffice."

"The Federal Grant and Cooperative Agreement Act identifies other exceptions to the general rule of competition. However, I believe such extensive use of non-competitive grant making raises serious questions."

"I encourage you to look into these matters on an expedited basis. I ask that you audit a sufficient number of non-competitive awards to understand whether relevant statutes and regulations were adhered to, and to evaluate the extent to which these awards are meeting their specific performance objectives and contributing to the Department's missions."

So Madam Secretary, that is a lot of money. Ninety percent raises a lot of questions. Could you explain the criteria that you used when making the decision to earmark a quarter-of-a-billion dollars under this initiative?

What are the specific performance measures, the evaluation criteria, and operational requirements of grantees? I would like to know what the results of these grants are thus far. So, again, help me understand, what is your criteria in sole sourcing 90 percent of this money?

## COMPETITION FOR HIGH-GROWTH JOB TRAINING GRANTS

Secretary CHAO. First of all, let me say that it is a philosophy—it is, in fact, the tendency of the Department to engage in competitive bidding. All high-growth grants are now competitive. The initial grants in the sectors were—in the high-growth job training program were initially directly responsive to worker shortage sectors. So that was just the first round.

All single-source contracts have to go through what is called a procurement review board. They were all approved by the procurement review board.

Having said that, our preference is always to competitively bid. So I think the particular instance that you mention—I wonder about the 90 percent. Because it depends on what you use as a base. But it is our preference to always competitively bid.

There are single-source contracts that do have to go through the procurement review board. As for the specific criteria, it is done by a group of—by the Employment Training Administration, which was trying, again, to meet the tremendous deficits in worker shortages in some of the high-growth industries.

Senator HARKIN. Madam Secretary, you said they are all competitive now. Not because of what you did. But because Congress required it.

Secretary CHAO. I do not think so. I think it was always the intent to competitively bid these.

Senator HARKIN. Intent? When 90 percent went uncompetitively?

Secretary CHAO. That was the only first round, to my understanding. That was to get the program off to a rapid start, because we were receiving a great deal of concerns.

Senator HARKIN. So you are saying that that did not happen over 5 years. It just happened in 1 year?

Secretary CHAO. I do not—I do not believe that is true. I do not believe that is the case. Whether it was 5 years or 1 year, it was—it was the first round. I will look more into it, but it was never our—our preference always is to competitively bid. And it was part of an overall effort to get—you know, we also—you asked about the performance measures, and—

## RECIPIENTS OF HIGH-GROWTH JOB TRAINING GRANTS

Senator HARKIN. Okay. Well, I am looking at some of these, and I asked the IG to look at them. One went to the National Retail Federation Foundation. \$2.25 million.

Secretary CHAO. I was not involved in that. But I would suspect that that, again, was to address the tremendous need for retail workers. We were trying to match workers' skill sets with high-growth industries that needed particular workers. There are many others as well. Construction workers are at a premium. Skilled trade workers are at a premium. We needed workers in financial and professional services.

I mean these were dire requirements in our economy. We actually can have a larger discussion about how training occurs through the Employment Training Administration and the workforce development system. I think it is actually quite valuable to have a discussion like that. Because right now there is a disconnect

between the workers—between the skill sets that are needed, and what workers are being trained in. How many workers are being trained.

Senator HARKIN. Well, some of these—I do not know. There is one in 2004 to the Manufacturing Institute of the National Association of Manufacturers.

Secretary CHAO. Again, I was not involved in that. But that is probably involving advanced manufacturing workers. Traditional manufacturing is declining as we all know. It has been declining worldwide for the last 40 years. Yet, manufacturing is evolving.

There is a new phenomenon now called advanced manufacturing, in which workers with higher technological and information technology skills are desperately needed. So what we are seeing, and this is precisely what the issue is facing our workforce, it is a skills gap. We have—at any one time, about 4 million jobs are vacant. We have high-growth industries that are desperately seeking workers. Yet, we do not have workers with the right skills.

So we have to train workers, help to train workers for relevant skills, so that they can get a job when they graduate.

Senator HARKIN. Madam Secretary, you are right.

Secretary CHAO. Okay.

Senator HARKIN. So then why is your budget cutting a billion dollars out of workforce training and all of that?

#### WORKFORCE INVESTMENT SYSTEM

Secretary CHAO. Well, it is an excellent question. I am pleased to answer it. It is, primarily, because—and I am grateful for this dialogue, because it is so important.

I agree with Bill Gates. We need to prepare our workforce. But what is happening is that of the workforce—I love the system. We all support and treasure the system. But even people who work in the system are frustrated by the bureaucracy, the overlaying, duplicative infrastructure.

Most of the funding goes to salaries and infrastructure. We are training 200,000 people at a budget of \$6.8 billion. We have employment services offices that reside right next to one-stop career systems. They do the same thing. Yet they cannot talk to one another or they do not coordinate.

We have \$1.1 billion to \$1.7 billion in excess carryover funds every year. So in terms of just good cash management, that is not a very good practice. Over \$3.4 billion goes to infrastructure.

We need to—all of us who work in the system need to challenge ourselves more to do more to ensure that workers are being trained for the relevant skills. We have this wonderful system. Yet we also have high-growth industries, where they cannot find enough workers. So something is wrong. Again, we need to challenge ourselves to do more and take a look at the system.

How can we use this money better? How can we train more workers? That is an issue—

Senator HARKIN. So you are saying you do not need any more—you can use—you can do all of this with a lot less money. That is what you are saying.

Secretary CHAO. We need to carry out reforms. We need to carry out reforms that will enable—

Senator HARKIN. Have you suggested any reforms to this committee and to the Congress?

Secretary CHAO. We have. That is part of the overall debate and discussion that we need to have.

Senator HARKIN. All right.

Secretary CHAO. It takes 10 years—7 to 10 years for the whole system and for these national debates to occur. It happened with—

Senator HARKIN. Well, we have been there—

Secretary CHAO [continuing]. JPTA and, you know, in 1998 with WIA. So we are in the process of discussing further enhancements and reforms to this workforce investment program.

#### WIA CARRYOVER BALANCES

But the reality is, there is \$1.1 billion in carryover funds that are not used. Every State has excess funds.

Senator HARKIN. Well, I am going to have to look at that, too. But I wanted to follow up on just one thing. You mentioned that there were 200,000 being trained annually. GAO has consistently refuted the data that you have presented to us. GAO found that your Department's calculation of carryover, what you just mentioned, has created a mistaken impression of excess unspent balances. Now this is GAO.

GAO found in their June 2005 report that GAO's estimates represent a more complete and accurate picture than Department of Labor's. Because they are based on information obtained directly from the local workforce areas. Include all funds spent or obligated for training. Count all adults who received training in program year 2003, not just those who exited the program.

So your Department's justification for a \$335 million cancellation of job training funds rests on your claim of excess unspent carryover, which you just mentioned. Overestimates, according to the GAO. The GAO found that most unspent balances in states had already been obligated or committed.

So I hear you. I hear what you are saying. But GAO does not agree with you and we rely on GAO. That is our investigative arm. So we have to rely on GAO to give us accurate information. So are you telling me that GAO is not giving us accurate information?

Secretary CHAO. Unfortunately, we respectfully disagree with GAO's findings. We are also disturbed—and just from that passage that you just read—we are very results oriented. If we ask—if we help a person go through training, we owe it to that person to ensure that they get relevant training, so they can access a real job when they graduate.

So we have performance measurements. So graduation rates do make a difference. Placement rates do make a difference. We are looking at employment upon graduation, retention, and also earnings. We want to know how long that person stays on the job after they graduate. After they get a job. Also what the earnings are.

So we are concerned about, again, the outcome. The graduation rate is important.

Senator HARKIN. I never said it was not.

Secretary CHAO. I thought that GAO said that they were looking at not only those who exit the program.

Senator HARKIN. That is right. But GAO—but they are looking—what they are talking about is the actual picture. Because they said their information is obtained directly from local workforce areas, directly. They include all the funds spent or obligated for training. Count all adults who receive training in program year 2003. Not just those who graduated.

Secretary CHAO. Yes.

Senator HARKIN. So to get a whole picture of what is happening, obviously, graduation rates are important. But you have to look at the whole pool that is out there.

Secretary CHAO. Absolutely. But we do—we do not—I want to just—I want to be respectful. So we disagree with that.

If you look at the unspent balances in each of the states, there are unspent balances. Every year, there are carryovers. Every year. They range from \$1.7 million to \$1.1 billion.

Senator HARKIN. Let me put it this way. Let us say that I have a contract in 2006 to do certain things in 2007, to meet certain obligations. I have a contract to do that. That contract is \$1,000.

Let us say in December 2006, I have \$1,000 in my pocket. Well, you can say in December 2006, I have \$1,000 of unspent money. But if you really calculate it on a balance sheet, like GAO would look at it, they would say, “Well, no, because that is obligated.” You really do not have any unspent—you have not spent it yet, but you are obligated to it.

That is what they are looking at here. So I respectfully also say, are we playing some word games here? I am looking at obligated—what they have. You say unspent. GAO says obligated to spend. When you look at it that way, you do not have that much carryover money.

Secretary CHAO. Well, that brings us, unfortunately, to another area of discussion. Related, of course. That is the whole issue of when you—if you have \$1,000, and let us say someone buys 3 years of training slots, because, first of all, WIA does not train. We purchase the training slots from a training provider.

Senator HARKIN. Right.

Secretary CHAO. So whether the training slots are actually used or not is another story. So you can obligate it for 3 years or 330 slots, or 2 years, and then 334, for another. But whether workers are actually filling those slots is another question.

So there are a lot of—not only is there the issue of excess balances, or in your words, obligated funds, but there is also the tremendous need for reforms in this program. When we talk about the money, that is just part of it. We need to reform this program so that it is relevant.

#### WIA REFORMS

Senator HARKIN. What is the most significant reform that comes to your mind that we need to do?

Secretary CHAO. I think we need to give the States more flexibility. Right now, I keep—the Federal Government keeps 5 percent. The rest of the money goes down to the State. Depending on the 17 different revenue funding streams, the State keeps about 15 to 35 percent, and the remainder goes into the municipalities.

What we have sometimes are adjoining districts. When they have a surplus, when they have a deficit. Yet, the State will not have any flexibility in shifting those funds around. We do not want to shift those funds around. We are not proposing that we be given the authority. But we think that these funds, at least, should be more flexible. So that at the State level, they can shift them around. Right now, that cannot be done. Also, we have——

Senator HARKIN. But you can.

Secretary CHAO. Not really. It is very strict. It is very strict.

Senator HARKIN. Well, I will have to look into that. I mean, obviously, I do not know it as well as you do. But it has been my information that DOL can do that, if you have——

Secretary CHAO. Not really. If you have employment services. Adult. Youth. Dislocated. These are very strict funding——

Senator HARKIN. You are saying your hands are tied. If you have a deficit area right next to a surplus area, you cannot take it from the surplus area and put it in the deficit area if that is needed?

Secretary CHAO. No. Because it is their money. It has already been given out, by statute.

Senator HARKIN. Okay.

Secretary CHAO. So what we are asking for is just more flexibility. Again, we are not asking for the authority ourselves. We are just asking that the State level be given more flexibility.

Senator HARKIN. Why will you not ask for the authority? Why not give it to the DOL? Why give it to the States?

Secretary CHAO. Because I think probably——

Senator HARKIN. You have a better handle on the national picture.

Secretary CHAO. Well, number one, it is by statute. So there has to be a statutory change. And number two, probably the States would——

Senator HARKIN. Well, there would have to be a statute change for the States to do it, too.

Secretary CHAO. Yes.

Senator HARKIN. Well, I am just saying, I do not know—I mean it would seem to me that if you are talking about flexibility to do that—and I will look at that and consider that.

Secretary CHAO. There are workforce investment boards. I think that the thought was that probably the States know better. They are more direct to the grassroots and to the ground. They would know at a faster rate—they would know faster what the needs are.

Then another thing is incumbent workers. I will give you another example. Right now, we have major companies in our country that have said that in 2 or 3 years they are going to close a plant. With all the money that we have in this fund, we do not have any money for incumbent workers. So we have to wait until the workers are laid off before we can offer them transition employment services assistance.

These days, companies are getting further and further in advance notice of when they plan to shift facilities around. Yet, we cannot do anything to help these incumbent workers while they are waiting for this transitional period. So we—and so this is a big issue, too.

There are reforms such as this that we believe that would really make the system better, more responsive.

Senator HARKIN. That is interesting.

Secretary CHAO. More helpful to workers. Because we support the system. But there has got to be a better way to do all this.

Senator HARKIN. Well, I will look at that, too. I mean if you have some suggestions on changes in that, we will look at that. Let me just consult with my staff on that.

Well, now I am getting different information.

Secretary CHAO. Okay.

Senator HARKIN. I am told for the last 5 years we have given you the authority for flexibility to train incumbent workers. I have just been told that for the last 5 years we have given you that authority. So—

Secretary CHAO. Okay. I hate to give you piecemeal answers. So I apologize. I have been told that it is only at the State level, but not at the local level.

Senator HARKIN. What? The State level?

Secretary CHAO. Because all the funds, if you recall, go directly to the local—most of the funds go directly to the local WIB boards.

#### WIA FUNDING FLEXIBILITY

Senator HARKIN. My brains over here just told me that we have provided for an authority for 30 percent to shift between the adult block grant and the other block grant. So you have a 30 percent authority there. Is that right?

Second, you say it is at the State level, not the local level. But I am also told that when the State takes the block grant and gives it to the local level, they can provide the flexibility to the local level. States can do that.

So you are saying they do not have the flexibility at the local level. That has more to do with the State than us. If you want to give more money to the States, then—but they are not providing the flexibility at the local area. Not us. The States are not doing it.

Secretary CHAO. I guess what we are saying is that we need flexibility, not only at the State level, but at the local level as well. The whole system is very important.

Senator HARKIN. Well then we are going to have to tell the States that—obviously, we are going to have to tell the States they have to do certain things. So it is not just a block grant. We are going to have to tie some strings to it, to tell the States that they have to give the flexibility at the local level.

Secretary CHAO. We would agree with that as well. Because a lot of times the funding goes directly to the local, and it is used for deficit reduction purposes as well sometimes.

I would really welcome a discussion with your staff about this. We would welcome that.

Senator HARKIN. Well, because—and the reason I am caught up in this is because we really have a difference here between what GAO is telling us and what you are telling us. We have a real difference here.

Secretary CHAO. Inflexibility in the system and the different silos, in terms of funding streams, makes it very difficult to shift

money around. We are not trying to decrease the money. We are just trying to shift it around, so that it is more responsive to local conditions.

Senator HARKIN. But is it 30—as I have just been told by counsel, you have 30—up to 30 percent to shift around.

Secretary CHAO. I was told it was an insignificant amount, not as large an amount as that. Is it 30 percent?

Let me correct it. It is 30 percent. But apparently the local boards do not think that that is significant or large enough.

Senator HARKIN. Well, are they even utilizing the 30 percent?

Secretary CHAO. It is on—I believe so. We get a lot of waivers. We get a lot of requests. That is very burdensome. It is very—it is done only under extraordinary circumstances.

Senator HARKIN. Well, we will get to the bottom of it. We will, and I will have my staff get a hold of your staff and start working some of this stuff out here.

Secretary CHAO. Thank you.

#### HIGH-GROWTH JOB TRAINING GRANTS

Senator HARKIN. I still just repeat for emphasis sake, and I am going to have the IG look at this earmarking, the 90 percent. We changed it. We stopped it, in law. Did I just read to you the public law that we just passed, that said you cannot do that any more. That is why, because—

Again, Madam Secretary, I do not think anyone would have minded if it were 10 percent or 4 percent. I mean we, in Congress, our congressionally directed funding is less than 1 percent.

Secretary CHAO. Yes.

Senator HARKIN. All the newspapers and all the press are out there going after Congress. It is less than 1 percent.

Secretary CHAO. It is a bigger budget, too.

Senator HARKIN. I agree that sometimes you have—what?

Secretary CHAO. It is a bigger budget, too.

Senator HARKIN. But it is still less than 1 percent. If you look at it percentage wise.

Secretary CHAO. I do not want to dispute on the 90 percent. We have to take a look at that, because that is a surprising number to me. I think, again, it depends on what you—it was that one particular year, when it was starting up. That was an effort to jumpstart some worker training programs in high-growth industries that were desperately seeking workers. But I will take a look at that.

Senator HARKIN. Well, like I said, I think there is a need for you as a secretary, me as a senator, Senator Specter as a Senator, and others, to respond to certain needs that may not be applicable on a competitive basis. But we have guidelines for that.

Secretary CHAO. Absolutely.

Senator HARKIN. We have guidelines for that. But when it comes out to 90 percent, that sort of—is pretty startling. I think that is one of the reasons we put that in the law this year. Just this year. Well, last year. Pertaining to this year.

## WORKFORCE INVESTMENT SYSTEM

Secretary CHAO. Mr. Chairman, may I also suggest—request one other thing. As we talk about some of these issues with the overhang and the excess balance, may we also talk about some of the—may our staffs also discuss some of the need for how to handle the duplicative structure? Because right now—

Senator HARKIN. Duplicative—

Secretary CHAO [continuing]. We have dual structures within the workforce investment system. Again, I believe that everyone wants to do the right thing. The issue is: How do we break down some of these silos that are preventing a full focus on the worker?

All of these services should be arrayed with the worker in the center. Nowadays, the workforce investment system is so complicated that a worker almost needs an advanced degree to be able to access the various different types of programs. It is very confusing, so—

Senator HARKIN. Back in the nineties, then Secretary of Labor—I do not remember who, which one it was. We started these—I remember they had a big deal about this one-stop shop. This one-stop thing. What has happened to all that?

Secretary CHAO. Well, it was an improvement over the previous years. But the idea is not complete. So more needs to be done to bring that about.

Senator HARKIN. Legislatively? Or administratively? You are the administrator.

Secretary CHAO. I think we—we have tried to do as much as we can, administratively. Then some of it has to be legislatively done as well.

Senator HARKIN. Have you—

Secretary CHAO. We would hope that—

Senator HARKIN. Have you suggested legislative language to us?

Secretary CHAO. We have.

Senator HARKIN. I mean, if you have, I am sorry.

Secretary CHAO. I—

Senator HARKIN. In fact, that is the other committee, but I am on that committee, also.

Secretary CHAO. Right. Again, we have. It is part of the national discussion that we need to be having.

Senator HARKIN. Because, obviously, my concern here is budget-wise, money-wise, but that has to do with the issues, and how the programs are carried out. Then, of course—then the other committee I serve on the—the HELP Committee, in terms of the—

Secretary CHAO. So you are ideally positioned, Mr. Chairman.

Senator HARKIN. Say what?

Secretary CHAO. You are ideally positioned, Mr. Chairman.

Senator HARKIN. Well, maybe if I was chairman of that other committee, too, maybe.

Let me—a couple of other things, Madam Secretary. I do not mean to drag it out too—but there are some issues here that I want to cover with you.

## ERGONOMICS

One of your four stated goals is protecting worker safety. I am going to get into an issue that has sort of been a sore point between us for a long time. Not between you and me, but just between the Department and Congress. Ergonomics.

Secretary CHAO. Yes.

Senator HARKIN. Approximately one-third of all injuries and illnesses with days away from work are musculoskeletal disorders that result from exposure to ergonomic hazards on the job. In 2005, the last year we have data for, there were 375,540 serious ergonomic injuries, resulting in time off the job, reported by employers.

In 2002, after the repeal of OSHA ergonomics standard, you, Madam Secretary, announced a comprehensive plan to address ergonomic injuries, including, and I quote, "Industry-targeted guidelines and tough enforcement measures." You stated, "Our goal is to help workers by reducing ergonomic injuries in the shortest possible timeframe."

Well, let us look at the tough enforcement measures. OSHA has only issued 17 ergonomic citations since 2001. Twelve were issued in 2003. Four in 2004. One in 2005. None in 2006. So Madam Secretary, when are you going to practice this tough enforcement that you have committed to?

One citation, I think, over the past 2 years does not sound like tough enforcement, when we see there were 375,000-plus serious injuries reported by employers, resulting in time off.

So I want to ask you about, where is the tough—where is this tough enforcement?

## ERGONOMIC ENFORCEMENT

Secretary CHAO. Well, as you mentioned, the approach that we have taken is strong enforcement, outreach, research based on sound science, and, of course, industry-specific guidelines. So we have issued the final ergonomic guidelines for nursing homes, retail grocery stores, poultry processing. They are obviously all industries of high rates of MSDs.

Then a fourth guideline on shipyards was delayed, because of some information quality challenges. OSHA is in the process of updating that, and we hope to have a draft for public comment shortly, soon.

We have conducted over—OSHA has conducted over 850 ergonomic inspections per year and sent out about 408 hazard alert letters.

Senator HARKIN. Well, why one citation in the last 2 years, when you have all these injuries? Why only one citation? How come it has gone from 17—or 12 in 2003, down to none? I mean that is just—

Secretary CHAO. I will take a look at that.

Senator HARKIN. That just does not sound right, you know, when no citations are being issued. So someone at OSHA is just not—I do not know—I am trying to figure this out. Why? What is happening at OSHA?

I hope that you will provide us with some plans to step up these enforcement efforts. Now that is enforcement of the guidelines. You mentioned the guidelines.

#### ERGONOMIC GUIDELINES

You appointed members to a national advisory committee on ergonomics, which recommended 16 industries—you mentioned some of them there—for the development of guidelines. But only three guidelines have been issued, and none since 2004. So when are the other 13 guidelines going to be provided or completed?

Secretary CHAO. If you—I will just bring this up. If you recall, we did not have an OSHA Administrator for almost 18 months. So it does—leadership does count. When we do not have leadership at the agency level, it does make a difference.

We now have a new Administrator. He is committed to ensuring the worker's safety and health of our workforce. I will take a look at that.

Senator HARKIN. Well, please take a look at it, because these guidelines are just dead. Nothing is happening. Can you provide us with a specific time—not today. But can you provide us with a specific time line for the number of guidelines issued this fiscal year and next? Looking at those 13.

Secretary CHAO. Yes. May I also just mention that we take, of course, these issues seriously. But the musculoskeletal disorders involving days away from work declined 13.7 percent. So they have been declining.

Now the total number of cases evolving and days away from work declined both in 2003 to 2005. So the decline in the MSD is twice that of other cases. But your point is well taken. I will take a look at it.

[The information follows:]

OSHA has carefully considered the recommendations offered by the National Advisory Committee on Ergonomics (NACE) which was established to advise the Secretary of Labor on ergonomics guidelines, research, and outreach and assistance. We have updated the NACE analysis using more recent injury statistics. The agency is using the results of this updated analysis as one source of information as it considers candidates for future ergonomics guidelines. It should be noted that NACE recommended that OSHA consider "Other Criteria" (e.g., injury trends, absence of available guidelines) established by the Guidelines Workgroup when making specific industry selections from the NACE list.

Our past experience with guideline development is the best indicator of future timelines. The Guidelines for Nursing Homes were completed in about a year. The Guidelines for Poultry Processing and the Guidelines for Retail Grocery Stores were completed simultaneously in a 2-year period. We plan to publish draft Guidelines for Shipyards in fiscal year 2007, and anticipate finalizing them in late fiscal year 2007 or early fiscal year 2008.

Senator HARKIN. All right. Thank you. One last question about this.

Secretary CHAO. Sure.

#### MUSCULOSKELETAL DISORDER REPORTING FORM

Senator HARKIN. You talk about decreases. I have been told that you changed the reporting form and eliminated the column that had been used to report musculoskeletal disorders. Is that so?

Secretary CHAO. I seem to recall—

Senator HARKIN. I was told that you changed the reporting form and eliminated the column that had been used to report musculoskeletal disorders. So then it would make it look like there is less.

Secretary CHAO. I do not think that was the intent. I do remember something to that effect, but I do not have the answer at hand.

Senator HARKIN. Can you provide the committee—

Secretary CHAO. I will look into—sure.

Senator HARKIN [continuing]. With that information, too, on this? Also, any analysis that you have done concerning the effect that the elimination of this column may have had on the accuracy of reporting. I am not here saying it has or it has not.

Secretary CHAO. Okay.

Senator HARKIN. I am just asking if you had done any looking at getting rid of that column—I do not know why it was gotten rid of. I am not an expert in that area. But why it was gotten rid of. Analyzing if it has had any effect on the accuracy of reporting.

Secretary CHAO. We will do so.

Senator HARKIN. If you can provide that to us, I would appreciate that.

[The information follows:]

Each year, the Bureau of Labor Statistics (BLS) produces statistics of Musculoskeletal Disorders (MSDs) as part of its annual survey of occupational injuries and illnesses. The BLS is able to calculate and publish both the number and rate of MSDs involving days away from work, using individual case data collected from the detailed OSHA injury and illness 301 form. MSD statistics are available by industry and occupation, along with various estimates of MSD characteristics (such as median days away from work), and demographics (such as the age and sex of the injured employee). The BLS statistics on MSDs are generated by including cases with a defined combination of nature of the injury or illness and event or exposure, and a specific MSD column on the OSHA form is not needed to generate them. The BLS MSD statistics enable OSHA and the general public to accurately evaluate the scope and trend of MSDs in America's workplaces.

OSHA has never implemented a specific column for recording MSDs on its injury and illness forms. OSHA's old 200 Log contained a column for "repeated trauma" cases, which captured some, but not all MSDs, but also included other conditions, such as occupational hearing loss. Since the column did not provide an accurate tally of all MSDs, it caused confusion regarding MSD statistics and was removed in 2001 as part of a comprehensive injury and illness recordkeeping revision.

An MSD case is recorded on the OSHA Log 300 using the same process as for any other type of injury or illness. If an MSD is work-related, and is a new case, and meets one or more of the general recording criteria, the case must be recorded on the OSHA forms. Inclusion of a specific MSD column would have no bearing on the recordability of an MSD case. However, requirements for entering MSD cases in a specified MSD column would have relied on the same MSD definition used in the ergonomics standard repealed by the Congress. The requirements for the MSD column were delayed while the agency reconsidered the issue, and in 2003, following public comment and extensive deliberation, OSHA decided not to include an MSD column on the form. The agency decision was based on several factors, including: (1) the column would not impact employer, employee and OSHA MSD analyses at the establishment level; (2) the column had no impact on OSHA's ability to carry out ergonomics enforcement under Section 5(a)(1) of the OSH Act; (3) different definitions of MSD may be appropriate depending upon the context in which they are used; and (4) accurate MSD statistics were already available from BLS.

Senator HARKIN. I do not know why we are having so much trouble with ergonomics. I just do not know why. You know. We know it is happening. We see people every day. We hear the reports. We see the data. Yet nothing ever seems to get done about it. It is—it is a health problem in America.

I mean if we had workers exposed to asbestos or dangerous substances, we would be taking action. Yet, they are exposed to repetitive motion injuries that many times will plague them for the rest of their lives. Yet we just seem to just do nothing about it.

Secretary CHAO. I do want to correct one perception. When we inspect workplaces, it is not that we do not inspect for ergonomic infractions. When we talk about some of this, this is specifically ergonomics—specific ergonomics investigations or inspections. When our inspectors go into a workplace, they will take a look at the whole array of non-compliance activities and behaviors, which include many times, but it is not specifically targeted out as ergonomics.

#### MSHA'S REVIEW OF MINE ACCIDENTS

Senator HARKIN. Senator Byrd cannot be here today, and wanted me to just ask a couple of questions on MSHA. It has been more than 16 months since the mining tragedies at Sago and Alma. The United Mineworkers Association, as I said in my opening statement, issued a report recently stating that if MSHA had followed their legislative mandates, all 12 Sago miners would have survived. That was according to the United Mineworkers Association.

MSHA's internal reviews of these accidents will be released shortly. I do not know when. Sometime soon. Could you provide for the record: One, a plan and time line for taking the corrective actions necessary to prevent tragedies, like those that occurred last year. Number two, the specific steps MSHA will take to get better communication and tracking technology into mines as soon as possible, until wireless systems are available. Third, provide for the record quarterly reports on MSHA funds being used to and outcomes achieved related to the specific requirements of the MINER Act.

So if you could provide that to the committee. I will have these—

Secretary CHAO. I will do so.

[The information follows:]

MSHA is currently conducting exhaustive internal reviews of its own enforcement activities at the Aracoma, Darby, and Sago mines. These will evaluate the actions of MSHA prior to the accidents and provide appropriate recommendations to improve the quality and effectiveness of MSHA's enforcement program at the field offices, district offices and the headquarters levels of MSHA. MSHA will assess any deficiencies in its enforcement program and take corrective actions as soon as possible to address all identified shortcomings and issues.

MSHA Technical Support has conducted an exhaustive review of communication and tracking technologies available in other industries globally and solicited interest from providers of this technology. We have received suggested technology improvements from more than 138 interested parties, met with 52 of these parties and witnessed 20 underground demonstrations of these improved technologies. MSHA's focus has shifted from evaluating and encouraging new technology manufacturers into the mining industry (as was done last year) to testing and evaluating for MSHA approval of this new technology. MSHA has received a total of 51 applications for approval of new communications and/or tracking technology since January 2006, and 25 of these were received in 2007. This represents a very significant increase from the typical number of communications systems approval applications. MSHA's Approval and Certification Center has prioritized all communications and tracking approval applications and has shifted internal resources towards evaluation of these applications. Six new communications or tracking products and 15 revised products have already been approved as of May 24, 2007, and it is anticipated that a significant number of improved technology products will be approved in the near future.

Under the MINER Act, MSHA is ensuring that each mine's accident response plan provides for a redundant means of communication with the surface, such as secondary telephone or equivalent 2-way communication, and provides for pre-accident tracking as an interim step to wireless 2-way communication and electronic tracking systems.

MSHA does not directly track expenditures of funds to the MINER Act. However, MSHA has implemented, or is in the process of implementing, all mandated MINER Act provisions. The following table summarizes MSHA's actions to date to implement the MINER Act:

#### MINER ACT—IMPLEMENTATION DATES AND STATUS

| Description of task                                                                                                                                                                                   | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SEC. 2. EMERGENCY RESPONSE</b>                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Develop and adopt an Emergency Response Plan (ERP) that contains provisions for post-accident communications and tracking; post-accident breathable air; lifelines; training; and local coordination. | MSHA issued Program Policy Letters P06-V-8 on 07/21/06; P06-V-9 on 08/04/06; P06-V-10 on 10/24/06 implementing the Emergency Response Plan (ERP) provisions in section 2 of the MINER Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Update plans periodically .....                                                                                                                                                                       | MSHA issued breathable air guidance on 2/8/07 in Program Information Bulletin (PIB) No. P07-03.<br>ERPs submitted to MSHA by 08/14/06 or citations were issued to operators.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Post-accident communications and tracking .....                                                                                                                                                       | MSHA has partially approved 100 percent of ERPs and fully approved 66 percent of ERPs for active, producing underground coal mines. Once the breathable air provisions and other deficiencies are addressed, ERPs can be fully approved.<br>MSHA issued a Request for Information (RFI) on 01/25/06 soliciting proposals for new communication and tracking technology. MSHA is sharing results of evaluations and testing with NIOSH. MSHA is evaluating submitted proposals, assisting in arranging demonstrations, observing testing at various mine sites, meeting with communication and tracking system company representatives, and communicating with parties interested in developing a mine communication and/or tracking system.                                                                                                                                                                                     |
| Post-accident breathable air for maintenance of individuals trapped underground.                                                                                                                      | MSHA approved four communication systems in 2006 that are commercially available now.<br>MSHA issued PIB P07-01 on 01/18/07 addressing the use of Global Positioning Systems during storms.<br>MSHA published an RFI on 8/30/06; comments received 10/16/06.<br>MSHA issued PIB P07-03 and associated compliance materials containing options for providing post-accident breathable air to underground coal miners on 02/08/07.<br>Mine operators were required to submit a portion of the ERP addressing breathable air by 3/12/07. Mine operators have re-submitted ERPs with provisions for breathable air. As of May 31, 2007, 306 of these ERPs have been fully approved while the remaining are currently being reviewed by the districts for breathable air and other deficiencies. The National Mining Association has challenged MSHA's breathable air guidance in the Court of Appeals for the District of Columbia. |
| Post-accident, flame resistant, directional lifelines .....                                                                                                                                           | Mine operators must implement breathable air provisions 60 days after MSHA approval of ERP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Training program for emergency procedures .....                                                                                                                                                       | Emergency mine evacuation final rule was published 12/08/06. The final rule requires that lifelines be made of flame-resistant material upon replacement, and that all lifelines be flame-resistant no later than June 15, 2009<br>Required in emergency mine evacuation final rule published 12/08/06.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Local coordination and communication between the operators, mine rescue teams, and local emergency response personnel.                                                                                | Required in ERPs                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Emergency Response Plan approval and review .....                                                                                                                                                     | Required to be submitted to MSHA by 8/14/06 and every 6 months thereafter                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

## MINER ACT—IMPLEMENTATION DATES AND STATUS—Continued

| Description of task                                                                                                                                                                                                                                       | Status                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>SEC. 4. MINE RESCUE TEAMS</b></p> <p>Provides certification, composition, and training requirements for underground coal mine rescue teams.</p>                                                                                                     | <p>MSHA drafting proposed rule expected. The final rule is due under the MINER Act on 12/14/07.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p><b>SEC. 5. PROMPT INCIDENT NOTIFICATION</b></p> <p>Requires operator to notify MSHA within 15 minutes of a death or an injury or entrapment, which has a reasonable potential to cause death.</p>                                                      | <p>Included in Emergency Mine Evacuation final rule (published on 12/08/06).</p> <p>Minimum civil penalties under the MINER Act are in effect (see penalties, below).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS</b></p> <p>MSHA to be liaison and primary communicator with families of victims and primary communicator with mine operators, the press, and the public.</p>                                         | <p>Assistant Secretary for MSHA was assigned responsibility for developing Family Liaison Program on 11/02/06.</p> <p>MSHA issued PPL P06–V–11 on family liaison and primary communicator on 12/22/06.</p> <p>MSHA is developing policy to be implemented as a part of accident investigation handbook.</p> <p>Training completed for 14 designated MSHA personnel.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>SEC. 8. PENALTIES</b></p> <p>Revise existing rule to increase minimum penalties for unwarrantable failure citations and orders; and “flagrant” violations.</p>                                                                                      | <p>MSHA immediately implemented new minimum civil penalties after passage of the MINER Act for unwarrantable failure and failure to notify violations. MSHA established procedures for evaluating “flagrant” violations in October 2006.</p> <p>MSHA’s final rule on civil penalties was published on 03/22/07 and is now in effect.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>SEC. 10. SEALING OF ABANDONED AREAS</b></p> <p>Requires increase of 20 psi standard for sealing of abandoned areas in underground coal mines.</p>                                                                                                   | <p>MSHA issued PIBs establishing a temporary moratorium on new seal construction until the agency issued subsequent guidance for addressing alternative seals: PIB–06–11 issued 06/01/06; PIB–06–12 issued 06/12/06; PIB–06–14 issued 06/21/06; PIB–06–16 issued 07/19/06. Seal strength for alternative seals was increased to 50 psi under this PIB.</p> <p>MSHA issued Procedure Instruction Letter (PIL) I06–V–09 on 08/21/06 establishing procedures for agency approval of ventilation plans that include alternative seals. MSHA has approved one plan that included alternative seals and has approved a number of others provisionally.</p> <p>MSHA will continue to work with NIOSH on research and testing of seals, particularly full-scale testing of seals at higher explosion pressures.</p> <p>NIOSH draft report issued 02/09/07.</p> <p>Emergency Temporary Standard (ETS) issued on May 22, 2007. The ETS, effective May 22, 2007, addresses the design, construction, maintenance and repair of seals, as well as requirements for sampling and controlling atmospheres behind seals. It requires training for persons who conduct sampling, and who construct and repair seals. Mine operators must submit design and installation applications for MSHA approval. In accordance with the Mine Act, the ETS must be finalized by February 22, 2008.</p> |
| <p><b>SEC. 11. TECHNICAL STUDY PANEL</b></p> <p>Establish Belt Air Technical Study Panel to provide review and recommendations on the use of belt air and the composition and fire retardant properties of belt materials in underground coal mining.</p> | <p>Belt Air Technical Study Panel established 12/20/06.</p> <p>1st meeting held on January 9–10, 2007.<br/>2nd meeting held on March 28–30, 2007.<br/>3rd meeting held on May 16–18, 2007.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

## MINER ACT—IMPLEMENTATION DATES AND STATUS—Continued

| Description of task                                                                                                                                              | Status                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Submit a report to the Secretaries of Labor and HHS and to the Congress.                                                                                         | Procedures and timetable established. Relevant documents posted on MSHA's website.<br>4th meeting will be June 20–22, 2007 in Birmingham, AL.<br>5th meeting will be scheduled to summarize all the Panel's activities.<br>Panel report due 12/20/07.                                                       |
| Provide a response to Congress describing the actions that the Secretary intends to take based on the report and the reasons for such actions.                   | Secretary of Labor's response due 6/20/08.                                                                                                                                                                                                                                                                  |
| SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES                                                                                                                 |                                                                                                                                                                                                                                                                                                             |
| Conduct research, including field tests, on the utility, practicality, survivability, and cost of refuge alternatives in an underground coal mine environment.   | MSHA will share with NIOSH data collected as a result of MSH's Request for Information (RFI), published 01/25/06, and other MSHA/NIOSH public meetings, including 03/13/06 meeting on mine rescue communication and tracking technology and 4/18/06 meeting on Mine Escape Planning and Emergency Shelters. |
| Issue report to Congress concerning its research results.                                                                                                        | NIOSH report due 12/15/07.                                                                                                                                                                                                                                                                                  |
| Provide response to Congress describing the actions that the Secretary intends to take based on the report, including proposing regulatory changes.              | MSHA response due 6/15/07.                                                                                                                                                                                                                                                                                  |
| EMERGENCY MINE EVACUATION RULE                                                                                                                                   |                                                                                                                                                                                                                                                                                                             |
| MSHA issued final rule, effective immediately, on 12/08/06 finalizing emergency temporary standard providing improved protections for emergency mine evacuation. | National Mining Association has challenged the final rule in the Court of Appeals for the District of Columbia.<br><br>On 03/30/07, MSHA issued notice on availability of SCSR training units which must be used within 60 days after receipt of the units.                                                 |

Senator HARKIN [continuing]. Submitted——

Secretary CHAO. Did you want me to answer some of that or——

Senator HARKIN. What?

Secretary CHAO. Did you want me to answer some of that?

Senator HARKIN. Do you want to answer that? I just——

Secretary CHAO. We will provide more for the record as well. Obviously, we have been very, very focused——

Senator HARKIN. Okay.

Secretary CHAO [continuing]. On all of this in the aftermath of the tragedy of 2006.

Senator HARKIN. Do you know when this review is going to be issued? Do you have any idea on MSHA's review?

Secretary CHAO. Yes.

Senator HARKIN. Shortly?

## MSHA'S ARACOMA MINE REPORT

Secretary CHAO. Yes. In fact, the Aracoma Mine report will be coming out tomorrow. I respectfully ask that we debrief—we brief the family members first before doing so to the committee.

Senator HARKIN. Okay.

Secretary CHAO. That has always been the procedure. But we are—it takes a long time to file these reports. Please know that we are diligently working away to find out the causes. We do not want

to prejudge. There is an internal review process that occurs. Then that report is usually released about a month after the accident report.

#### PERSONAL PROTECTIVE EQUIPMENT

Senator HARKIN. One last thing and then we will, I think—one or two last things here. Personal protective equipment.

Secretary CHAO. Yes.

Senator HARKIN. OSHA's own estimates indicate that requiring employers to pay for basic personal protective equipment such as safety goggles and earplugs could prevent workers from suffering nearly 50,000 workplace injuries per year. These are OSHA's estimates.

It has now been 8 years since a standard was first proposed. Despite repeated assurances, OSHA has let this fundamental worker safety requirement languish. In response to a recent lawsuit, OSHA, again, is promising to issue a standard. This time by November. OSHA has offered no assurances about what kind of standard it will issue.

So my question, Madam Secretary, is: When will you issue the standard that OSHA first proposed in 1999? Given the opposition to this proposal by special industry interests, what assurances can you give us that you will not weaken the final standard in comparison to the 1999 proposal?

Secretary CHAO. We have been, actually, working on this issue for quite a while. The issue as to who should pay for personal protective equipment, you know, appears pretty straightforward on the surface. But, in fact, it is a very complicated issue. It requires careful deliberation to address a lot of the complex issues that have been raised in the rulemaking record.

We are currently considering the issues raised in the rulemaking. We reopened it for comment in 2004. We do—we know that this is important. So the Department does intend to issue a final rule, absent, again, unforeseen circumstances, by November of this year. We think that we can probably do it. It is our intent to do it by that time.

Now regardless as to who pays for PPEs, our standards require employers to determine and ensure that workers use PPEs appropriately, so they can be protected. That is very firm.

Senator HARKIN. All right. Thank you very much.

Let me loop back to something that I talked about earlier. Because in between time, I talked about these earmarks and stuff. These special non-competitive awards.

#### INTERNATIONAL LABOR ORGANIZATION

Again, back to international child labor. Which has been an interest of this Subcommittee—mine, but also Senator Specter's too, when he was chair.

We—you, the Department of Labor, had a relationship with the International Labor Organization for a long time. What I am hearing—what I am hearing is that you are now thinking of putting that out for other recipients.

As I said earlier, a small amount of non-competitive grants is reasonable. We have guidelines for that. Considering certain fac-

tors, such as the unique qualifications of a grant recipient. The continuance of an existing relationship that has allowed for the maintenance of services are of particular significance to the agency on a long-term basis.

So I am concerned that you are undergoing efforts to discontinue the relationship that Labor has had with the International Labor Organization. I am wondering what that is all about.

Secretary CHAO. Well, that certainly is not true. I mean I, myself, have gone to every single International Labor Organization's annual meeting. I think I have gone more frequently than any other secretary. I think that is pretty accurate.

As I mentioned, the stance of the Department is that we try to competitively bid these grants. Because we want to ensure that the best services are available to the recipients and beneficiaries of these grants.

The 90 percent that you mentioned, I will look at that.

Senator HARKIN. Okay. Well, we do not need to go over —

Secretary CHAO. I do not think that is quite correct.

Senator HARKIN [continuing]. That ground any more.

#### PERFORMANCE REVIEW BOARD

Secretary CHAO. Then where there are instances for sole-source, which, again, we try not to do, it has to go through a performance review board. As you mentioned, there has to be some pretty extraordinary circumstances.

Senator HARKIN. Who makes up that performance review board anyway? How are they appointed? How are they picked? Who picks? How many are there?

Secretary CHAO. I think I—I think I choose them, but I think I sign off on the candidates who are nominated for this board, and it goes—you know, goes through clearance. It is primarily—

Senator HARKIN. Could you find out for me?

Secretary CHAO [continuing]. Professionals—

Senator HARKIN. I want to find out who this performance review board is, and how they are picked, and how many. I do not have any idea whatsoever.

Secretary CHAO. They are primarily career people.

Senator HARKIN. Yes.

Secretary CHAO. It has been there before we—you know, it has been there for a very long time.

Senator HARKIN. I think so. I just do not know anything about it.

#### ILO FUNDING THROUGH ILAB

Secretary CHAO. We hope that the ILO will compete in this grant-making process. ILO is very competent. They should be able to do very well in the grant competition.

We have over 30 other organizations, however, that do work in child labor. We have AED. Catholic Relief Services. International Rescue Committee. Save the Children. Winrock International. International Youth Foundation. UNICEF, even.

So absent, again, a hard earmark within the legislation, there are many other organizations that have this capability to provide the services. So—

Senator HARKIN. Well, I would respectfully disagree with you on that. In terms of this—I mean they do good stuff. Do not get me wrong. But this is something I have tracked down for a long time. The ILO has been involved in this. They have the structures. They work with these other agencies. They coordinate with these other agencies to do certain things in the field on child labor.

Secretary CHAO. Then if they fund—

Senator HARKIN. Gathering data, for example. That type of thing. Pardon?

Secretary CHAO. If they fund these other organizations then, they of course, take a fee, you know, for the management. There is an overhead—excess overhead charge. Again, we are not against ILO for doing this. We just say—we are just saying that in the current situation—as you well know, throughout the administration, there is this emphasis on earmarks. Unless—in the language of the bill, which, of course, could not happen in this last go-around. But nevertheless, anything short of that, we basically are opening it up for competitive bidding.

So we hope the ILO will compete.

Senator HARKIN. Well—

Secretary CHAO. I mean with their particular expertise, they should do very well.

Senator HARKIN. Again, as I said, there is a—there is an exception made for unique qualifications, continuance of an existing relationship for maintenance and services, on a long-term basis, that allow for non-competitive grants.

The problem I see with this is that—obviously, everybody wants some money. So if you throw it out there, sure, you may—I do not want to see this parceled out. I do not want to see a little bit going to Catholic Relief Services, and a little bit—Lutheran Relief Services. A little bit to Red Cross, or whoever, out there. They are all good organizations. They do great work in a lot of ways.

We have had a focus on international child labor from this Department through ILO, for about, if I am not mistaken, 12 years now. I think that has been about right. Maybe a little bit longer.

As I said, we are making great progress. It is something that I monitor closely personally, and my staff. I am concerned about parceling things out and sort of taking the focus off. You have just got to—you have a good focus on it. I think ILO has been uniquely qualified to do that. Only because they—well, they have been doing it for a long time.

All of the things I have seen in the field indicates that they are doing a good job. If you have other information other than that, I would be more than happy to see it. But I am concerned about that aspect of it. So we will leave it at that, I guess.

Secretary CHAO. I take your advice on not fragmenting or parceling out—

Senator HARKIN. Yes.

Secretary CHAO [continuing]. These—

Senator HARKIN. Because it is not that much money anyway.

Secretary CHAO. It is a lot of money.

Senator HARKIN. Well, you are trying to cut it. You are trying to cut it. I know that. But I am not trying to cut it.

Secretary CHAO. I understand your point about not parceling it out. But I think that is still separate from competitive bidding. So——

Senator HARKIN. I do not know about that.

Secretary CHAO. Okay.

Senator HARKIN. We will have to take a look at it——

Secretary CHAO. I will.

Senator HARKIN [continuing]. And see. See who else—see if there is anyone else out there qualified. Only because I said that we have—unless you have information and data that can show me that ILO is not doing its job, and that it has been falling down on it, and that, then that is different. That is quite different.

Secretary CHAO. Yes. I do not think that is the case either. I think it has always been—we just try to—more and more we are just trying to competitively bid these contracts, again, with——

Senator HARKIN. I do not have anything wrong with competitive bidding, unless that would lead to a derogation——

Secretary CHAO. I understand.

Senator HARKIN [continuing]. Of the efforts that we have ongoing. Well, Madam Secretary, first, before I—this is really all I wanted to cover, that I had. The only other thing I would just say is that a 9.4 percent cut in this budget is—it is not good. Especially, just the whole area of Job Corps cut, \$55 million. A 3.5 percent cut.

#### OFFICE OF DISABILITY EMPLOYMENT POLICY

The other one—oh. Yes. There is one other area I just want to bring to your attention. There is a proposed cut in funds for the Office of Disability Employment Policy by \$9 million. That is a 32 percent cut.

Madam Secretary, we passed the American Disabilities Act in 1990. President Bush, the first Bush, signed it into law. It was bipartisan. We have had 17—and my name is on that, by the way. We have had 17 years of experience under ADA. One of the goals of ADA was self-sufficiency, that people with disabilities would become self-sufficient.

Yet, 17 years later, the unemployment rate among people with disabilities is over 60 percent.

Secretary CHAO. Right.

Senator HARKIN. It is over 60 percent.

Secretary CHAO. I agree with you, yes.

Senator HARKIN. So, you know, this is one where we just have to start focusing more attention. Now that is why, and this is not in your area, but—I am making sure we have reasonable accommodations for people with disabilities. Transportation. All those other things. But that is outside of your bailiwick.

But one thing that is in there is this disability employment policy. I do not know why—what is the reason for a 32 percent cut when we have over 60 percent unemployment among people with disabilities.

Secretary CHAO. We share your concern about the high rate of unemployment among Americans with disabilities. But I think we disagree on what ODEP should be doing. By having ODEP give out grants, we do not feel it is the best way to tackle this problem ei-

ther. ODEP should be a catalyst. It should be a facilitator. It should be a—you know, a convener. It should be sharing best practices. It should be doing the kind of—advocacy. Promotion work. Rather than give out grants. We are very limited on—

#### ODEP GRANTS

Senator HARKIN. What do those grants do?

Secretary CHAO [continuing]. What people—

Senator HARKIN. What do those grants do, Madam Secretary?

Secretary CHAO. With not very much results, I am afraid.

Senator HARKIN. But what do they do? What do those grants do?

Secretary CHAO. They give them out—sometimes they are direct grants to increase employment. A very small amount. \$20 million, basically.

Senator HARKIN. Is that \$20 million just given out in grants?

Secretary CHAO. Actually, the budget is about \$40 million. So we have asked for \$20 million. So there is a difference of about \$20 million. But we do not think that, again, ODEP should be involved in grant making.

Senator HARKIN. Well, can your staff give us some idea of what those grants are?

Secretary CHAO. Sure.

Senator HARKIN. I have been told that some of those grants actually go out to show employers how they can employ people with disabilities by making modest, small accommodations that do not cost a lot of money.

I have heard all kinds of stories of these grants going out and showing an employer that by just a small amount of investment, they can hire people with disabilities, and have good workers who are very productive.

But a lot of times, they do not think about things. It is not that they are bad. The employers do not think about things like that. They have businesses to run, and they are trying to move ahead and stuff. But sometimes these grants go out to really show what can be done. Then others can see it.

So if I am wrong in that, let me know. I would like to know what some of these—

Secretary CHAO. I will take a look.

Senator HARKIN [continuing]. Grants look like.

Secretary CHAO. I will do so.

Senator HARKIN. I am not sure if I agree with you that we should not be giving grants. It depends on what the grants are for. If the grants are just busy work and studying something to death, well, you are right. I would agree with you that that would not be—but if it is actually going out to provide information and support to employers, especially small employers, to show what they can do to enhance the workplace for people with disabilities, well, I would not think those would be bad things to do. But if you would just give me some information on it, I would sure appreciate it.

Well, actually, I have kept you long enough, Madam Secretary. There are some others, but—well, we may have some questions for the record we will submit to you.

One last thing. Madam Secretary, I am concerned that the Department is not responding to requests from the subcommittee. We

are still waiting for responses to questions for the mine and safety hearing record, which were due last week, and the State tables on the impact of your proposed \$335 million cancellation of Job Training funds.

Again, will you assure me that your Department will provide this subcommittee, our staffs, both sides, with timely and accurate responses to requests for information?

Secretary CHAO. I am sorry that that has been delayed. I thought they were—I am sorry that you have to bring it up. It will not happen again.

Senator HARKIN. I appreciate that very much. Then we also have some questions for the record.

Secretary CHAO. I would be more than glad—

Senator HARKIN. Anything else?

Secretary CHAO [continuing]. To answer them.

Senator HARKIN. All right. Anything else, Madam Secretary, you would like to request of us, or bring our attention to, or anything? I mean—

Secretary CHAO. I think we are okay. We have a good relationship with your staff. We look forward to working with them on some of these—

Senator HARKIN. Very good. Yes.

Secretary CHAO [continuing]. Tough issues.

Senator HARKIN. Okay. Well, thank you very much. You have been generous—oh, wait. Just a moment.

Secretary CHAO. I will submit a document on the balances per the State. I thought you might be interested in this.

Senator HARKIN. Oh. Yes. Yes. Yes. We would like to see that.

Secretary CHAO. All right.

Senator HARKIN. I will get my staff to take a little bit more look at that. On the balances. This is the carryovers that we were talking about earlier.

Secretary CHAO. Right.

Senator HARKIN. Yes.

Secretary CHAO. Because this comes up every year.

Senator HARKIN. I know. I would like to get a handle on it.

Secretary CHAO. Yes.

Senator HARKIN. I have one kind of view, or something, or one way that I think about it. I do not know if that is the right way or not, because—well, I mentioned about the contractual obligations. That type of thing.

You had a different way of looking at it, as to whether or not that money is actually spent or not. Well, I do not know the answer to that question.

Secretary CHAO. We look forward to working with you on this.

Senator HARKIN. I appreciate it very much.

Secretary CHAO. Thank you.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HARKIN. Well, you have been very generous with your time, and your answers and responses.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

## QUESTIONS SUBMITTED BY SENATOR TOM HARKIN

## NUMBER TRAINED UNDER CAREER ADVANCEMENT ACCOUNTS

*Question.* Please provide a chart displaying for the past 5 program years, the number of individuals trained under the proposed consolidated programs versus the number trained under the proposed Career Advancement Accounts. Please provide a quantitative analysis of how this proposal, which reduces funding sources for consolidated programs by more than \$600 million, or 16 percent, can result in an increase of the number of trained individuals from 200,000 under current law to 600,000 under your proposal.

*Answer.* The Career Advancement Account proposal for Workforce Investment Act (WIA) reauthorization proposes the consolidation of four programs—the WIA Adult, Dislocated Worker, and Youth programs and the Employment Service. The following table shows the number of individuals trained in each of the past 5 years in the WIA Adult and Dislocated Worker programs. A minimal number of youth receive training under the WIA Youth program, and training is not provided under the Employment Service.

| Program                     | Number of Individuals Trained |         |         |         |         |
|-----------------------------|-------------------------------|---------|---------|---------|---------|
|                             | Program year                  |         |         |         |         |
|                             | 2001                          | 2002    | 2003    | 2004    | 2005    |
| WIA Adult .....             | 75,963                        | 107,671 | 102,950 | 109,492 | 105,457 |
| WIA Dislocated Worker ..... | 66,192                        | 98,540  | 102,415 | 95,113  | 83,669  |

Source: Workforce Investment Act Standardized Record Data file.

The President's proposal for WIA Reauthorization would result in over 600,000 individuals trained through Career Advancement Accounts each year. Under the proposal, the amount of WIA funding dedicated to training would be substantially increased. This would be accomplished by (1) eliminating the current inefficient "silo" business model whereby programs are duplicative and create inefficient and parallel service delivery structures and (2) implementing a customer-focused model that enhances access to postsecondary education and training.

At the President's request level in the fiscal year 2008 budget, local areas would be required to spend a total of \$1,899,000,000 on training. A Career Advancement Account would provide up to \$3,000 each year for a worker to obtain training, resulting in an estimated 633,000 individuals trained each year. Additional funds are provided to States for Employment Services, to be used by local areas for the provision of intensive services and discretionary One-Stop Career Center services in addition to the provision of core services. More detail on the proposed funding structure is provided in the following table.

## WIA REAUTHORIZATION PROPOSAL FUNDING STRUCTURE PRESIDENT'S FISCAL YEAR 2008 BUDGET REQUEST

|                                                                       | Amount          |
|-----------------------------------------------------------------------|-----------------|
| Total Appropriation .....                                             | \$3,413,000,000 |
| National Reserve (7.5 percent of Total Appropriation) .....           | 255,975,000     |
| Total Funding to States .....                                         | 3,157,025,000   |
| Set Aside for Outlying Areas (.025 percent) .....                     | 7,892,563       |
| State Administration (5 percent of Total Funding to States) .....     | 157,456,622     |
| 33 percent to State Level .....                                       | 1,039,213,704   |
| State Administration (5 percent of the Total Funding to States) ..... | 157,456,622     |
| Employment Services (67 percent of State Level funds) .....           | 696,273,182     |
| State-wide Activities (Remaining State Level funds) .....             | 185,483,901     |
| 67 percent to Local Areas .....                                       | 2,109,918,733   |
| Local Administration (10 percent of Local Area funds) .....           | 210,991,873     |
| Career Advancement Accounts (90 percent of Local Area funds) .....    | 1,898,926,860   |
| Average Account .....                                                 | 3,000           |
| Number of Accounts .....                                              | 632,976         |

## FUNDS SPENT ON ADMINISTRATION

*Question.* The budget justification States that “too many resources are being used to pay for administrative functions, overhead costs, and multiple layers of staff.” What is the specific evidence for these conclusions? Please provide more detailed information about the amounts of resources that DOL believes is spent inappropriately on administrative functions.

*Answer.* The Department’s belief that too much workforce investment funding is used for administration and overhead costs comes from a number of sources. First, while the Employment Service is intended to be a cornerstone of the One-Stop Career Center system under the Workforce Investment Act (WIA), many States continue to have separate Employment Service offices offering the same core services that are available in the same communities at the One-Stop Career Centers under WIA. The lack of integration in the delivery of core services by different programs has continued duplicative bureaucracies that divert funds that could be spent on services, including education and training.

Second, the current WIA regulation at 20 CFR 667.220(b) enumerates the specific functions defined as administrative costs. As required by WIA, this definition of administrative costs was developed in consultation with Governors and other stakeholder groups in 1999, and was more narrow than the definition in use before 1999. However, instead of reducing the level of administrative activity when the caps were lowered, some States and local areas charge some activities considered administrative costs under earlier programs as program costs. Activities such as performing oversight and monitoring of the program, the costs of facilities used for programmatic activities, the provision of technical assistance, the activities of State and local boards, professional organization membership dues, and the evaluation of program results, which have traditionally been classified as administrative costs, are currently classified as programmatic costs. As a result, there is no effective administrative cost ceiling.

Finally, based on expenditure data submitted by the States, the Department estimates that the proportion of WIA and Employment Service funding that has been spent on infrastructure is about one-quarter for the last 4 program years. For this estimate, the Department looks at the costs of infrastructure, including both physical and organizational costs, at the State and local levels that support the delivery of services to participants by the One-Stop system such as local administration and other infrastructure costs. While the Department does not question whether some of these costs are necessary or appropriate, taken in total, too large a proportion of WIA funds is spent on infrastructure and overhead rather than direct services.

## COMMUNITY-BASED JOB TRAINING GRANTS

*Question.* The budget request proposes to continue a fourth year of investments in two related initiatives that according to the Department are critical to the “transformation of the workforce system and talent development”—the High Growth Job Training Initiative and the Community-Based Job Training Initiative, better known as the Community College Initiative.

To improve the training capacity in many communities, the budget request also includes the Community College Initiative. How does the Department plan to evaluate the impact of this investment—\$250 million in the first two rounds alone—on increased community college capacity, better skilled workers, and community economic growth? How does the Department plan to identify and share promising practices with the education, workforce and economic development networks to further advance these improvements? How will the Department determine what is a “promising or best” practice?

*Answer.* The Department of Labor’s Employment and Training Administration (ETA) is launching a full evaluation of the Community-Based Job Training Grant (CBJTG) program, also known as the Community-College Initiative, in Program Year (PY) 2007. It is focused on all grants awarded under the first two competitive Solicitations for Grant Applications. The evaluation will be composed of two parts. The first part is an implementation study that explores the effectiveness of capacity building efforts. The second part of the CBJTG evaluation is a net-impact study. This study, using non-experimental matching methodologies, will assess the net impacts of CBJTG training against a comparison group of like individuals. Additionally, grantees report their progress towards meeting their capacity building goals and the impact of their capacity building activities to ETA on a quarterly basis. ETA is in the process of compiling and validating the impact data reported to date.

Grantees are taking a variety of approaches to help bridge the gap between the workforce needs of industry, and the training and education provided to individuals who need jobs. As a result of these new approaches, grantees are producing a vari-

ety of products including best practice case studies, curriculum, competency models, distance learning tools, career awareness and outreach materials, research, career lattices, creation of industry skill centers, and Web sites.

CBJTGs were funded because they met an identified high growth or high demand industry need by implementing a capacity building and training strategy. Therefore, ETA believes all products developed under these grants may provide useful resources to the workforce system and many are potential promising or best practices. ETA is currently implementing a comprehensive dissemination plan to distribute the approaches, products, models, and tools from both the CBJTG and High Growth Job Training Initiative grantees to the public workforce investment system and educators from across the country. To do this, ETA utilizes a network of national, regional, State, and local stakeholders including industry, education, and the workforce investment system. ETA makes all of these grantee tools, models, and products available through the Workforce3One Web site ([www.workforce3one.org](http://www.workforce3one.org)), a site designed for sharing innovative resources, tools and learning events with workforce and education professionals. ETA routinely features products and promising practices through Webinars and monthly electronic newsletters distributed through Workforce3One. In addition, ETA is developing a series of industry product CDs in order to share all Workforce3One materials with 1,900 community colleges, 3,200 local One-Stop Career Centers, State and Local Workforce Investment Boards, Governors, and a wide variety of industry associations.

#### WIA REALLOCATION AND RESCISSION

*Question.* The budget proposes to cancel \$335,000,000 of unexpended balances from various State formula grant programs authorized under the Workforce Investment Act. Since this proposal will cancel unexpended balances in State WIA funds, how will the Department know whether these funds are obligated already for authorized activities, including training?

*Answer.* States submit quarterly financial status reports to the Department which include data on Workforce Investment Act (WIA) title I formula fund obligations as well as expenditures. By using data reported at the end of Program Year (PY) 2005 (the most recent completed program year) as a guideline, approximately \$555 million in WIA formula funds not obligated by the State and local areas were carried over into PY 2006. Since these unobligated funds greatly exceed the proposed \$335 million cancellation, and make up only part of the total unexpended carryover balance that reaches over \$1.1 billion, the Department does not expect obligated balances to be impacted significantly. Furthermore, the proposal would provide flexibility for the Secretary, at the request of the State, to allow a portion of the cancellation to be applied to a State's current-year funds, which are less likely to be fully obligated.

*Question.* The budget proposes to allow the Secretary to reallocate among the States for program year 2007 any amount that a State had unexpended for certain WIA program in excess of 30 percent and provide those funds to any State that did not have a balance greater than this amount. In addition, bill language is proposed that would allow Governors to reallocate funds in the same manner at the local level.

For each of the last 3 program years, please provide information on the extent to which reallocations at the local level take place currently, by State. Is there good enough data available to the Secretary and governors for making the reallocations, under the authority requested in the fiscal year 2008 budget?

*Answer.* The fiscal year 2008 budget proposes that the Secretary for States, and the Governor for local areas, have the authority to recapture and reallocate unexpended funds in excess of 30 percent of available funds. This would expand the current law recapture and reallocation authority that only applies to unobligated funds. The Department currently receives certified reports on expenditures from States providing the information needed to calculate which States would be affected by the proposed recapture and reallocation. Because of early concerns about the quality of accounting and financial reporting, the Department has conducted extensive financial training sessions with State and local staff to ensure that financial data is accurately gathered, recorded and reported. For instance, the Department developed and offered across the Nation a course on accrual accounting.

Individual local area financial data is reported to the State, but only aggregate local information is reported by the State to the Department of Labor. The State determines the recapture and reallocation of local funds and the Department does not collect reallocation data from the States; therefore, the Department cannot provide that information.

## FINANCIAL REPORTING GUIDANCE

*Question.* Has DOL provided more financial reporting guidance, technical assistance and promising practices, as recommended by the Government Accountability Report, GAO-03-239? Please describe the actions taken and/or planned (including a timeline) to address the recommendations in this report.

*Answer.* Yes, the Department has provided financial reporting guidance and technical assistance. Between fiscal year 2004 and fiscal year 2006, the Department provided a number of States considerable technical assistance through Accrual Accounting and Financial Reporting training sessions. During these sessions, the Department provided 23 States with guidance and technical assistance on accrual accounting and financial reporting requirements, such as in-depth training on the reporting requirements for WIA funds as well how to account for, define, and report consistently on obligations, unliquidated obligations, and accrued expenditures.

The Department conducted Accrual Accounting and Financial Reporting training sessions for State and local employees on the following dates:

- January 23–27, 2006—Two sessions in Washington
- April 11–12, 2006—One session in Maryland
- April 18–19, 2006—One session each in Wisconsin and Arkansas
- April 25–26, 2006—One session each in Minnesota and Oklahoma
- May 9–10, 2006—One session in New Mexico
- May 17–18, 2006—One session in Michigan
- May 23–24, 2006—One session in Oregon
- June 27–28, 2006—One session in Ohio
- June 20–21, 2006—One session in Pennsylvania
- July 17–18, 2006—One session in Nebraska

Additionally, the Department has held three major national conferences around the country during the most recent year to train State, local and other financial and administrative staff on WIA and other Federal requirements that must be followed, including those relating to financial reporting.

## MIGRANT AND SEASONAL FARMWORKER PROGRAM

*Question.* The budget proposes to eliminate funding for this program, in part, because the Department believes the program does not focus enough on providing employment and training services. Over the last 5 years, about 5 percent of grant funds have been spent on related assistance, of which some is for gas and car repairs and some for emergency food, housing and medical care. Over 80 percent of the funds have been spent on job training and placement activities. About 90 percent of the jobs farmworkers were placed into were outside of agriculture and came with benefits and significant wage gains. Are these figures consistent with Department of Labor records? If not, why not? If the data is accurate, what's wrong with spending patterns and outcomes achieved by grantees under this program?

*Answer.* The Department does not collect data on whether jobs into which farmworkers are placed are outside of the agricultural industry. However, the goal of the program, and of all job placements, is economic self-sufficiency.

The expenditure rates cited are largely consistent with what grantees have reported to us. The Department of Labor's Employment and Training Administration (ETA) has been concerned that, historically, a majority of participants have been receiving only low cost related assistance services, which are available through other Federal programs and do not promote self-sufficiency, compared to those receiving employment and training services. This concern led ETA to implement three new approaches during the 2005 Program Year (PY):

- (1) refocusing the Solicitation for Grant Applications by highlighting that the National Farmworkers Jobs Program (NFJP) is a job training program;
- (2) establishing a cap on the number of participants who could receive related assistance services only; and
- (3) changing the reporting system so that, for the first time, ETA could collect both participant and financial data on related assistance services only. Therefore, the PY 2005 expenditures for related assistance, accounting for 5.4 percent of the total, reflect, for the first time, the expenditures for those participants receiving these services and no others.

Currently, the NFJP provides services to about 20,250 of an estimated 2 million farmworkers, which demonstrates the need for a wider system approach. The One-Stop Career Center system can provide a full array of employment and training services, as well as supportive services and other related assistance, available from 17 Federal programs. Those being served by the NFJP have similar types of barriers to full-time employment that other workers do, and the relatively small NFJP does

not provide its participants with the full array of benefits they would derive from the workforce investment system.

#### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

*Question.* The budget proposes a reduction of \$133.6 million for the Community Service Employment for Older Americans program, based in part by efficiencies that could be realized under the reauthorization of the program. Specifically, what are the efficiencies that DOL believes will be achieved for administration of this program? What factors and assumptions did DOL use to calculate the proposed reduction of \$133.6 million?

*Answer.* Improvements to the program as a result of the changes made by the 2006 amendments to title V of the Older Americans Act (OAA), which authorizes the program, allow the Department to more efficiently use funds to serve workers than is possible under current law. Reforms that will contribute to increased efficiency in the program include the following:

- A new time limit on participation of eligible individuals in the program is a key reform of the program. This ensures that more people can access the program by rotating individuals more promptly through available slots, and helps grantees focus on the end goal of the program—helping seniors find unsubsidized employment.
- Performance measures have been streamlined and strengthened, holding grantees accountable for results, and promoting efficient and effective use of program funds.
- The newly reauthorized program provides more training options for participants. While community service can provide valuable work experience, many seniors need additional education and training in order for their skills to be viable in regional labor markets.
- The reauthorized OAA requires that an open competition for national grants be conducted every 4 years, ensuring that the best grantees operate the program and provide a stimulus for new ideas, innovation, and high-quality service.

The Department examined a number of factors in determining its fiscal year 2008 request. These include excessive recaptured funds, which have steadily increased over the past few years and topped \$13 million in PY 2004. The Department also considered the high number of unfilled slots among program grantees, which totaled over 1,500 in Program Year 2005. These factors indicate that program improvements are still needed in order to provide the most efficient and responsive services to low income seniors.

*Question.* What is the cost of maintaining the participant level at the 2007 program year level as adjusted by the higher minimum wage provided by H.R. 2, which was passed by the Senate on February 1, 2007?

*Answer.* Program Year (PY) 2007 has not yet begun, but will begin on July 1, 2007. In PY 2006 (July 1, 2006-June 30, 2007), the Department allocated 60,438 SCSEP authorized positions. The higher minimum wage provided by H.R. 2 would increase the unit cost. The unit cost represents how much each authorized position costs, and its calculation is set by the Older Americans Act section 506(g). The current unit cost is \$7,153. The minimum wage increase was signed into law May 25, and will become effective 60 days later on July 24, 1 month into PY 2007. The new unit cost for PY 2007 will be \$7,949. To support 60,438 positions at the PY 2007 unit cost of \$7,949 requires \$480,421,662 (\$7,949 unit cost times 60,438 authorized positions). To support 60,438 positions at the \$6.55 minimum wage and a unit cost of \$8,850 requires \$534,876,300 (\$8,850 unit cost times 60,438 authorized positions). The actual unit cost of SCSEP authorized positions will depend on whether a minimum wage bill is passed by the Congress, and the effective date of the minimum wage increase.

*Question.* How does the Department analyze and interpret the data that it has collected from all SCSEP grantees since July 2004 as well as the SCSEP evaluation completed by DAH Consulting for DOL in 2006? Both provide a very positive report on SCSEP's effectiveness. For example, SCSEP is given a higher customer satisfaction score than WIA by participating seniors and employers, according to a national survey published by the Charter Oak Group, a DOL contractor.

*Answer.* The Department regularly analyzes Senior Community Service Employment Program (SCSEP) data using the following sources: (1) grantee data in the SCSEP Performance and Results Quarterly Progress Report (SPARQ) system and (2) customer satisfaction surveys returned by SCSEP participants, host agencies, and employers. Although the customer satisfaction scores from participants, host agencies and employers are quite high, an analysis of performance data and financial data raises concerns about program effectiveness and indicates that some grant-

ees have not provided services at the full level for which they receive funds, resulting in a significant amount of funds being recaptured and a significant number of authorized training positions or “slots” being unfilled. Improvements to the SPARQ system will result in increasingly accurate data and will allow the Department to provide better guidance and technical assistance to grantees in efforts to perform more efficiently.

The Department also has analyzed results from a draft of the SCSEP evaluation by DAH Consulting. Although the DAH evaluation was positive overall, it also pointed to some areas where the SCSEP needs improvement. Specifically, the program could be more effective at moving participants into unsubsidized employment. As the report points out, this involves improving collaboration between SCSEP and the One-Stop Career Center system and improving access to training for good jobs. Two specific aspects of the newly reauthorized SCSEP—providing more training options for participants and placing a time limit on participation—should begin to address this challenge, ultimately enabling more individuals to secure unsubsidized employment. Finally, although the evaluation included some analysis of outcomes, it did not look at a critical aspect of the program’s effectiveness: its impact on the longer-term self-sufficiency of its participants. The Department will begin a study of that aspect of SCSEP this summer.

#### JOB CORPS OFFICE

*Question.* The fiscal year 2008 budget proposes to transfer the Job Corps office back to ETA on the basis of better integration of Job Corps within the workforce system and greater efficiencies. Please provide a more detailed justification for this proposal.

*Answer.* We continue to believe that the unique services of the Job Corps program are maximized when leveraged with the other job training and employment programs administered by ETA. The transfer back to ETA will maximize coordination and strategic planning efforts, and achieve efficiencies in overhead and administrative costs.

ETA already has an accountability structure in place. The Office of the Secretary, by contrast, is not structured to directly administer over \$1 billion in contracts. Doing so would require creating new bureaucracy in the Office of the Secretary to coordinate many functions, including:

1. National contracting support from the Office of Administration and Management.
2. Policy guidance from the Office of Policy.
3. Approval of media campaigns by the Office of Public Affairs.
4. Technology support from the Office of Administration and Management.
5. Administrative support for human resources, payroll, staff training, etc. from Administration and Management.

#### TEACHER SALARY INITIATIVE

*Question.* How will funds be allocated for the teacher salary initiative identified in the fiscal year 2008 budget? Which occupations will be covered and will it apply to all individuals in those occupations? How many individuals will receive an increase under the proposal and by how much?

*Answer.* Funding will be provided to each center operating contractor based upon the differential between their existing salary structure at that time and the salaries indicated by the comparability study for the positions in their area. The occupations covered are the Academic and Vocational Instructors (teachers). There are 2,051 teachers eligible to receive a pay increase under this proposal. However, the actual salary increase will be based on their salary comparability at that time, as indicated in the study, and by the center operator’s determination of qualifications (certifications received, experience).

#### EFFICIENCIES IN JOB CORPS OPERATIONS

*Question.* What are the efficiencies identified in the budget that will be achieved in Job Corps operations? How did the Department calculate the \$57 million in savings that could be achieved without any programmatic impact?

*Answer.* By identifying the number and location of student training slots that have remained consistently unfilled, we are able to reduce the slot levels at centers at the beginning of their contract or option year and thus reduce the fixed costs associated with providing services for more students than are on the center. Currently, we recover cost underruns from the contractors at approximately 15 percent of the per student cost because they must maintain fixed costs in anticipation that those training slots might be filled. It is far more efficient to price the contract at

what is actually needed based upon consistent trends in on board strength. The services to those students who are at the center are retained and thus, there is no impact on the program.

The savings were calculated by determining the per student training slot cost multiplied by the number of training slots identified for reduction. Some of the savings were offset by increases for pay and FECA, rent, inflation for all other categories resulting in an overall savings of approximately \$57 million.

#### JOB CORPS MARKETING CAMPAIGN

*Question.* DOL has announced a “major national marketing campaign to try to attract and to get more young people interested in attending the Job Corps program.” Can you describe this campaign, including the amounts budgeted in fiscal year 2007 and fiscal year 2008 for related activities?

*Answer.* On a national level, Job Corps’ National Recruitment and Outreach Campaign consists of program recruitment on television, radio, and specific print publications. Television spots remain the largest component of the campaign and are the most successful referral source in driving calls to Job Corps’ National Call Center, the first step of the admissions process. For Program Year 2006, we funded the campaign at \$5 million; for Program Years 2007 and 2008, Job Corps intends to fund it at \$6 million (which is the same level of funding from PY 1999 thru PY 2005).

Additionally, in October 2006, we launched Job Corps’ Consolidated Outreach Plan, which combined the program recruitment efforts of the National Office and its six Regional Offices into a single recruitment contract, which allows Job Corps to take advantage of economies of scale and ensures that a single message and unified brand is communicated to our target audience. With this consolidated plan, we are rolling out new Job Corps recruitment materials and television spots beginning May 1, 2007. All OA contractors, Regional Offices, and the Job Corps National Call Center will be provided with these national materials.

#### JOB CORPS RECRUITMENT

*Question.* Historically, Job Corps’ student enrollment levels have been cyclical and dependent on various factors including the economy, retention and recruitment. In the past, Job Corps has quickly devised plans to increase enrollment on Job Corps centers across the country. What is your national recruitment plan? What amounts are planned to be spent in fiscal year 2007 and fiscal year 2008 to implement the plan? When do you expect to see results?

*Answer.* Recruitment is a priority at all levels of the program and is independent from the decision to reallocate student slots. We do not believe that it makes economic sense to funnel additional recruitment funds to centers that have historically not been able to maintain full capacity. Instead, we would prefer to set more realistic slot levels at these centers and move the unfilled slots to other centers where they can be filled.

It is important to note that the number of students enrolled in the program is not solely a function of recruitment and admissions. In addition to student arrivals, the number of student separations and students’ average length of stay also factor into the OBS count. Even if student arrivals increase, students’ length of stay must not decrease (just as the student separation rate must not increase) if centers are to be filled. A vital component of increasing Job Corps’ OBS is student commitment, or the willingness and readiness of a student to remain in the program through graduation. To improve performance in this area, Job Corps has implemented the Speakers, Tutors, Achievement, Retention, and Success program (STARS), offering structured tutoring and mentoring to provide those students at risk of leaving early the encouragement and support necessary to remain longer in the program, thereby increasing the number of program graduates. Furthermore, we have implemented Career Success Skills (CSS) which permeates employability and social skills development into all aspects of the program, leading to a more personalized relationship between staff and students, improving center culture, and students’ willingness to remain in Job Corps. Additionally, we are piloting a drug screening program in which applicants are tested for drug use prior to admissions to further ensure that we are enrolling students who are committed to their education and ready for the rigor and demands of the program.

Job Corps monitors the programs’ arrivals, separations, weekly termination rates, average length of stays, and reasons for separation, at the center, regional and national levels, to ensure that any unexpected fluctuations in these areas are identified and reviewed, and to evaluate the effect new programs and programmatic changes may have on the OBS.

On a national level, Job Corps' National Recruitment and Outreach Campaign consists of program recruitment on television, radio, and specific print publications. Television spots remain the largest component of the campaign and are the most successful referral source in driving calls to Job Corps' National Call Center, the first step of the admissions process. For PY 2006, we funded the campaign at \$5 million; for PYs 2007 and 2008, Job Corps intends to fund it at \$6 million (which is the same level of funding from PY 1999 thru PY 2005).

Thus, Job Corps is addressing challenges with recruitment and retention throughout the program in order to implement a more holistic solution.

#### WIA ADULT PROGRAM

*Question.* ETA is developing and disseminating policy guidance and practical technical assistance to assist the WF system to increase education opportunities for adults and eliminate duplicative administrative and service delivery structures. What specifically has been provided in fiscal year 2006 and fiscal year 2007?

*Answer.* The Department of Labor's Employment and Training Administration (ETA) has issued a number of policy guidance documents designed to support the State and local workforce investment system in increasing adults' access to education opportunities and to ensure that the majority of workforce investment system resources are invested strategically in training and education, rather than in administrative expenditures and duplicative infrastructure. Examples of such policy guidance include the following:

- In March 2006, ETA issued policy guidance entitled, "Using Workforce Investment Act Funds to Serve Incumbent Workers and Employed Workers" (Training and Employment Guidance Letter (TEGL) No. 18-05). This guidance encourages the workforce investment system to take advantage of existing flexibilities under the Workforce Investment Act (WIA) to provide education and training to employed workers in order to support their career advancement and mobility.
- In November 2006, ETA issued Training and Employment Notice (TEN) No. 17-06, "Vision for 21st Century Apprenticeship." The TEN encourages the workforce investment system to adopt innovative apprenticeship models as a critical post-secondary education and training approach for adults.
- In January 2007, ETA issued policy guidance on the development and submission of States' strategic State Plans (TEGL No. 13-06, "Instructions for Workforce Investment Act and Wagner-Peyser Act State Planning and Waiver Requests for Years Three and Four of the Strategic Five-Year State Plan (Program Years 2007 and 2008)"). The TEGL explicitly requires that States discuss in detail their strategies for reducing duplicative administrative expenditures and structures, in support of increasing adults' access to education and training.

In addition to these policy issuances, ETA is currently developing guidance documents that, when published, will support the workforce system in increasing access to education for adults, while eliminating duplicative spending and service delivery structures. ETA expects to publish all of these draft policy guidance documents this year. Examples of policy currently in development include:

- Policy guidance on enhancing the integration of reemployment services for unemployed workers identified as most likely to exhaust their unemployment insurance benefits, within the broader continuum of education and training services provided through the public workforce investment system.
- Policy guidance that builds off of TEN No. 17-06 and provides the workforce investment system and the Registered Apprenticeship system with additional guidance on strategies for using the apprenticeship model as an innovative competency-building and education approach for adults, which could result in greater access for women in this program, as recommended by the PART assessment.
- Policy guidance that encourages the workforce investment system to implement innovative approaches to providing adults with access to entrepreneurship training and education.
- A TEN that communicates to the workforce investment system ETA's vision for the critical role of talent development and education as the key drivers of competitiveness and growth in regional economies.
- Policy guidance that provides the workforce investment system with guidance on accessing supportive service resources and support for adults through programs other than those funded under WIA, to ensure that the maximum amount of WIA resources are devoted to education and training, rather than to duplicative supportive service expenditures.
- Policy guidance encouraging the use of technology-based learning to increase access to learning opportunities for workforce investment system customers within existing statutory and regulatory flexibilities.

In addition to policy guidance currently in development, ETA is pursuing a number of cross-cutting initiatives and approaches aimed at enhancing adults' access to education and lifelong learning opportunities and improving the provision of training for adults under WIA. Examples of these efforts follow.

- The Workforce Innovation in Regional Economic Development (WIRED) initiative is focused on developing and replicating innovative talent development strategies that create high skill, high wage jobs for workers. Increasing education and training opportunities is a strong component of the WIRED initiative. In each region, the workforce investment system is collaborating with the continuum of education, industry, and economic development partners to ensure that workers are becoming educated and trained for high growth occupations and sectors. Promising practices from the WIRED Initiative will be highlighted at Workforce Innovations 2007 and shared widely on Workforce<sup>3</sup>One, a knowledge network for the workforce system, industry, and economic development stakeholders.
- Both ETA's High Growth Job Training Initiative and Community-Based Job Training Grants seek to develop, implement, and support the dissemination and replication of innovative models for providing adults with education and training in high growth, high demand, and emerging industries and sectors.
- Through the Technology-Based Learning (TBL) Initiative, ETA seeks to increase the number of people trained in high growth jobs through the broadening of opportunities for skill and competency development made available timely and conveniently through the use of technology-based learning methodologies.
- Our Performance Enhancement Project (PEP), a dynamic technical assistance contractual resource that assists ETA in improving the performance of WIA program operators, has provided a varied array of customized technical assistance to under-performing State and local areas over the past 4 years. One topic PEP addresses for the benefit of the workforce investment system as a whole is service integration. Through PEP, ETA is providing States and local areas with promising practice examples and simple training tools to help them better integrate programs.
- Workforce<sup>3</sup>One is an interactive learning tool designed to build the capacity of the workforce investment system to develop strategies that enable individuals to be successful in the 21st century economy by fully understanding the skills and competencies needed of business and industry and working collaboratively with a wide range of strategic partners to develop innovative workforce solutions. Workforce<sup>3</sup>One carries out this mission through a variety of strategies:
  - Allowing the workforce system, educators, business and industry, and others to share their innovative approaches, products, and tools;
  - Hosting online learning events as Webinars that highlight promising practices and provide a forum for policy discussions;
  - Providing a vehicle for ETA to share information and products developed at the national level;
  - Serving as a key point of dissemination for the approaches, products, and tools of the High Growth Job Training Initiative, Community-Based Job Training Grants, and WIRED; and
  - Offering a searchable database of over 3,500 learning objects, including tools, data, Webinars, and self-paced learning events.

*Question.* What guidance and tools have been disseminated to assist in working with veterans?

*Answer.* It is the Employment and Training Administration's (ETA) specific mission to ensure that the public workforce investment system is positioned to provide priority of service to veterans and to help veterans maximize their employment opportunities in civilian life by providing them access to education and training opportunities they need to obtain good jobs with career pathways. This requires understanding the full array of services and resources that are available to veterans and collaborating across organizations and programs to ensure leveraging of those resources for the benefit of veterans.

In response to the unique career and job placement assistance needs of transitioning military personnel and veterans, ETA has collaborated with the Department of Defense (DOD) and the Department of Labor's Veterans Employment and Training Service (VETS) on multiple efforts to create integrated and substantive employment, training, and support services. These efforts include providing guidance to the workforce investment system, including State workforce agencies, grantees, and One-Stop system leads, on priority of service for veterans; promoting awareness among veterans of One-Stop Career Center assistance; and exploring ways to ease the transition into civilian employment.

ETA has focused efforts on ensuring that veterans are provided with priority of service at One-Stop Career Centers. Training and Employment Guidance Letter (TEGL) No. 5-03, "Implementing the Veterans Priority Provisions of the Jobs for Veterans Act (Public Law 107-288)" was issued on September 16, 2003. This guidance was followed with the development of the Jobs for Veterans Act Web site, [www.doleta.gov/programs/vets](http://www.doleta.gov/programs/vets), and the posting of a series of questions and answers on this site for 15 programs administered by ETA.

With a policy of priority of service to veterans and an extensive array of programs and services in place, the Department has turned its focus to increasing veterans' awareness of, access to, and use of these employment and training services. The Key to Career Success campaign is designed to connect veterans and separating military personnel to services and resources available from One-Stop Career Centers nationwide. Announced by Secretary Elaine L. Chao on November 10, 2005, the centerpiece of the Key to Career Success campaign is a special wallet card issued worldwide to military personnel and others transitioning to civilian life. Information on the card guides veterans to their nearest One-Stop Career Center. To date, over 300,000 Key to Career Success cards and brochures have been distributed to over 300 DOD and DOL-VETS locations in the United States and abroad, mainly through Transition Assistance Program (TAP) workshops worldwide. The TAP is a partnership among the Departments of Defense, Veterans Affairs, Transportation and the Department of Labor's Veterans' Employment and Training Service (VETS) to give employment and training information to armed forces members within 180 days of separation or retirement through comprehensive 3-day workshops at selected military installations nationwide.

In November 2006, a Key to Career Success Military Transition Portal was launched at [www.careeronestop.org/militarytransition](http://www.careeronestop.org/militarytransition). The portal provides career information and links to services that help veterans and military service members successfully transition to civilian careers and functions as a landing page for accessing the resources that are currently available on the suite of CareerOneStop Web sites. The Key to Career Success portal will continue to be upgraded and will provide key components to the DOD TurboTAP Web site under development by the DOD in cooperation with DOL-VETS and ETA. The TurboTAP Web site provides information for service members on transitioning from military service and is a supplement to the services offered by the Transition Assistance Offices and other groups. The site is supported by DOL-VETS and ETA.

ETA will work with One-Stop Career Center staff to further implement the Key to Career Success campaign by documenting best practices and success stories at local One-Stop Career Centers. During the next few months, a 60-minute Web conference will be available through ETA's Workforce3One Website targeted at service providers with the goal of sharing best practices. Also, at Workforce Innovations, ETA's annual workforce conference, a workshop will focus on developing and connecting a local HireVetsFirst campaign to the Key to Career Success campaign.

In addition to connecting veterans with One-Stop Career Centers through the Key to Career Success campaign, ETA is examining ways to ease the transition into civilian employment for returning veterans. DOD and ETA have established a "Credentialing Working Group" to help remove credentialing barriers that some veterans and transitioning service members face. Translation of qualifications from the context of the military mission to the civilian setting still presents challenges for individual transitioning military members. In many cases, this is due to the range of civilian occupational licensing and certification requirements, which vary from State to State. The group will target high-value occupations that are both significant to the military and are sought by civilian employers. In those areas, the group will sponsor work to: (1) map career pathways between military occupations and civilian occupational employment, (2) promote uniformity/reciprocity across States with regard to occupational licensing, and (3) promote efforts to maximize the transferability of military education and training for purposes of credit toward licensure and certification requirements. To support this effort, ETA has established the Workforce Credentials Information Center, on the [Careeronestop.org](http://Careeronestop.org) Web site. The Center provides information on licenses, certifications, apprenticeship programs, educational degrees, and training, and includes information on matching military experience with civilian opportunities.

#### ADULT TRAINING OPPORTUNITIES

*Question.* The budget proposal would result in more than 50,000 fewer training opportunities under the Adult program. What's the impact of this proposal?

*Answer.* The budget proposal would not result in more than 50,000 fewer training opportunities under the Adult program. Under the President's Career Advancement

Account proposal for Workforce Investment Act (WIA) reauthorization that is part of the fiscal year 2008 budget, the WIA Adult, Dislocated Worker, and Youth programs and the Employment Service would be integrated into a single funding stream and, thus, a separate Adult program would no longer exist. The integrated funds would be used for Career Advancement Accounts and employment services for job seekers and employers. This proposal would result in significantly more individuals being trained in comparison with the number who now receive training under the current system. The Department estimates that over 600,000 individuals would receive Career Advancement Accounts at our fiscal year 2008 budget request level versus the roughly 189,000 adults who exit training under the current system. Under the Department's proposal, these individuals would include adults and out-of-school youth entering or re-entering the workforce or transitioning between jobs, and incumbent workers in need of new skills to remain employed or move up the career ladder.

#### MONEY SPENT ON BUREAUCRACIES AND OVERHEAD COSTS

*Question.* The budget claims that too much money is spent on competing bureaucracies, overhead costs, and unnecessary infrastructure. Please cite specifically the evidence for this conclusion.

*Answer.* The Department's belief that too much workforce investment funding is used for administration and overhead costs comes from a number of sources. First, while the Employment Service is intended to be a cornerstone of the One-Stop Career Center system under the Workforce Investment Act (WIA), many States continue to have separate Employment Service offices offering the same core services that are available in the same communities at One-Stop Career Centers under WIA. The lack of integration in the delivery of core services by different programs has continued duplicative bureaucracies that divert funds that could be spent on services, including education and training.

Second, the current WIA regulation, at 20 CFR 667.220(b) enumerates the specific functions defined as administrative costs. As required by WIA, this definition of administrative costs was developed in consultation with Governors and other stakeholder groups in 1999, and was more narrow than the definition in use before 1999. However, instead of reducing the level of administrative activity when the caps were lowered, some States and local areas charge some activities considered administrative costs under earlier programs as program costs. Activities such as performing oversight and monitoring of the program, the costs of facilities used for programmatic activities, the provision of technical assistance, the activities of State and local boards, professional organization membership dues, and the evaluation of program results, which have traditionally been classified as administrative costs, are currently classified as programmatic costs. As a result, there is no effective administrative cost ceiling.

Finally, based on expenditure data submitted by the States, the Department estimates that the proportion of WIA and Employment Service funding that has been spent on infrastructure is about one-quarter for the last 4 program years. For this estimate, the Department looks at the costs of infrastructure, including both physical and organizational costs, at the State and local levels that support the delivery of services to participants by the One-Stop system, such as local administration and other infrastructure costs. While the Department does not question whether some of these costs are necessary or appropriate, taken in total, too large a proportion of WIA funds is spent on infrastructure and overhead rather than direct services.

#### REFOCUSING THE WORKFORCE SYSTEM

*Question.* According to the budget justification, ETA is increasing its focus on postsecondary and training resources to help the workforce system be more responsive to changing labor market needs and regional economies. Please provide examples of what is being done and how the fiscal year 2008 budget supports this focus.

*Answer.* There are two ways the Department is helping the workforce investment system be more responsive to regional economic needs: (1) by implementing initiatives designed to promote regional competitiveness and greater access to education and training, and (2) by working with the Congress to substantially reform the workforce investment system.

Through the President's High Growth Job Training Initiative, ETA has invested over \$285 million in 150 partnerships among employers, education programs, and the workforce investment system. Each project targets the skill and talent needs of high-growth, high-demand and transformational industries in our Nation's economy and provides the resources necessary to train workers in the skills demanded by the 21st century economy.

Community-Based Job Training Grants, also known as the Community College Initiative, seek to address a critical shortcoming in the workforce development capacity of many regions by supporting community colleges to train workers for jobs in high-growth, high-demand industries. Due to their close connection to local labor markets, community colleges are well positioned to understand the intricacies of local economies and better prepare workers for occupations in these industries. The Department has provided \$250 million to 142 community colleges and other entities under this initiative.

The Department launched the Workforce Innovation in Regional Economic Development (WIRED) Initiative in February 2006 to emphasize the critical linkage between workforce development and economic development in regional economies. WIRED focuses on the role of talent development in driving regional economic competitiveness, job growth and prosperity for workers. Under the WIRED Initiative, the Department has invested \$260 million and provided expert assistance to 26 regions across the Nation to implement strategies that will create high-skill and high-wage opportunities for American workers.

The administration has also recently submitted to Congress legislation that will improve the ability of the workforce investment system to support our Nation's competitiveness by providing States and local communities more flexibility to design streamlined workforce systems that best fit the unique needs of their economies. Our proposal would also better serve the needs of American workers and employers by making more money directly available for education and training. Under the proposal, four separate funding streams would be consolidated and allocated to States—and through States to local areas—to provide Career Advancement Accounts and employment services to job seekers and employers. Most of these funds would be spent on education and training.

Career Advancement Accounts would enable current and future workers to gain the skills needed to successfully enter, navigate, and advance in the 21st century labor market. Accounts would be available to both adults and out-of-school youth entering or re-entering the workforce or transitioning between jobs, and to incumbent workers in need of new skills to remain employed or move up the career ladder.

#### DISLOCATED WORKER PROGRAM

*Question.* Under DWAC pilot programs—for career advancement accounts and other automotive industry layoffs—will help inform broader efforts for dislocated workers for fiscal year 2007 and beyond. What are these activities and specifically what is being learned that will shape future activities? What is proposed in the fiscal year 2008 budget under pilot programs and based on lessons learned?

*Answer.* Five States impacted by the announced General Motors and Ford plant closures (Georgia, Michigan, Minnesota, Missouri, and Ohio) have volunteered to pilot Career Advancement Accounts (CAAs) to serve the dislocated workers impacted by the closures as well as those workers who are displaced as a result of impacts on supplier companies and the community. This demonstration will focus on the use of CAAs for transitioning workers in need of tuition assistance for education, enabling them to either build on transferable skills or gain skills for new careers. Each State has received \$1.5 million from the Department and is expected to leverage a like amount in Federal, State, and local resources.

The CAA automotive demonstration is being evaluated to establish empirical knowledge and understanding of the provision of customer-driven training vouchers to dislocated workers impacted by the Ford and GM plant closures, as well as impacted employees of supplier companies and in communities. The evaluation involves four steps—technical assistance, data collection, an implementation study, and a net-impact evaluation, which together will lead to evaluation results that will inform future proposals and activities.

—*Technical Assistance.*—Technical assistance is currently being provided to the five automotive States. The overall objective of the technical assistance strategy is to support the CAA demonstration States with information and training that will help them to successfully implement their CAA projects.

—*Data Collection.*—To evaluate the overall effectiveness of the CAA demonstration, a standardized participant reporting system to collect data on services received through the CAA demonstration will be established and maintained.

—*Implementation Study.*—An implementation study of the CAA demonstration will examine the extent to which both individual project objectives and the overall grant program objectives were achieved; document project activities undertaken for possible replication in other States; and measure changes in outcomes

relative to a baseline period prior to the funding of the grantees projects. Work on the implementation evaluation will begin in June 2007.

—*Net-Impact Evaluation.*—A net-impact evaluation will provide statistically valid and reliable estimates of the effects of CAAs on key outcomes. A non-experimental net-impact evaluation of the five automotive States using either comparison group or comparison site methodologies will be conducted. The purpose of the net-impact evaluation is to determine the effects of the CAA training model on the employment and earnings of the dislocated workers participating in the demonstration. The CAA evaluation will also include two types of cost analyses—an administrative cost analysis and a benefit-cost analysis. The administrative cost study examines the extent to which the workforce investment system realized savings in bureaucratic and administrative costs from conducting the CAA model. The benefit-cost analysis looks at the overall CAA model to determine the cost effectiveness of the initiative to the government, the taxpayers, and society.

#### YOUTH ACTIVITIES: YOUTH PILOT PROJECT

*Question.* Youth Pilot Project—Have any States submitted the required reports to DOL? What is known about the changes and performance that have been achieved under the Pilot Projects? If DOL has yet to receive information, what is the timeline for the receipt of such reports? Please provide information about the amount of funds currently being spent on technical assistance to States related to furthering collaborative approaches for youth activities.

*Answer.* In February 2007, the Department of Labor issued the “Shared Youth Vision Pilot Project” application to the 16 State Teams that attended the 2006 Shared Youth Vision Forums. The State Teams submitted their completed applications to the Department on or before April 6, 2007. Funds will be awarded to the State Teams in two phases between now and June 30, 2007, based on the States’ readiness as demonstrated by their proposals. The Shared Youth Vision Federal Partnership is currently reviewing these proposals to determine how well the State Teams responded to the criteria in the pilot application that States demonstrate how their collaborative strategy will support integrated systems development and collaboration at the local service delivery level.

Because the pilot projects will not begin implementation until July 1, 2007, it is too early to assess changes and performance that have been achieved under the projects. States will operate the pilot projects over the course of Program Year 2007 (July 1, 2007-June 30, 2008), reporting quarterly on their progress. Also, the Department is funding a Shared Youth Vision Pilot Project Study to document the success of the shared youth vision collaborative efforts at the Federal, State, and local levels. This study will be completed by the fall of 2008. As part of this study, the Department will conduct the following analysis of the Shared Youth Vision Federal Partnership and the State Teams:

- Documenting the work of the Federal Partnership from 2004 to 2007 in support of system transformation, as recommended by the White House Task Force for Disadvantaged Youth.
- Documenting the work of the State Teams in a usable and transferable fashion in the following areas: (1) coordination and integration of services for the targeted populations; (2) multiple partner agencies working together at the service delivery level to serve targeted youth population(s) that reflects the State’s overall shared youth vision; (3) policies and practices identified and implemented based on gap analysis; (4) challenges associated with higher-level strategic planning and implementation among the State Teams; (5) interagency State Teams definition, collection and validation of measurable outcomes for neediest youth; (6) methods for engaging business and industry; and (7) implementation of replication and sustainability strategies.
- Developing a “Blueprint” model that can be used by States and local levels to assist them in their collaborative efforts around a shared youth vision.

The total amount of funding to be provided to the State Teams through the Shared Youth Vision Pilot Projects is \$1,720,000. In addition, the Department is funding \$100,000 of technical assistance for the pilot projects.

#### YOUTH ACTIVITIES: ALTERNATIVE EDUCATION

*Question.* In working with the Department of Education on identifying and bringing to scale systemic alternative education approaches for creating multiple pathways to graduations, how did DOL and the Department of Education factor in evidence of effectiveness? What was the standard adopted and what role did the Education’s Institute of Education Sciences play in this collaboration? How will this

focus on the alternative education be continued under the current law budget request?

Answer. The Departments of Labor and Education promote alternative education through unique yet complementary initiatives, and collaborate in sharing evidence of effective practices and productive strategies. Through its implementation of the No Child Left Behind Act, the Department of Education is focusing its efforts on reducing the number of drop-outs and holding school districts accountable for low graduation rates. In the Department of Labor, the Employment and Training Administration's (ETA's) Youth Vision, developed over 2 years ago, augments this work by addressing the large number of youth leaving high school without a diploma and unprepared for the demands of the 21st century workplace. Through the Youth Vision, ETA uses the Workforce Investment Act (WIA) Youth program as a catalyst for increasing both the quality and quantity of alternative learning environments and re-connecting out-of-school youth with secondary and post-secondary educational opportunities and high growth employment.

ETA studied different alternative education interventions for evidence of effectiveness. In a report funded by ETA on alternative education programs that re-engage out-of-school youth with learning, the Urban Institute found that there are few scientifically-based rigorous evaluations on the effectiveness of alternative education approaches. However, the study points to programs that have a clear focus on academic learning and address the education and career interests of students as promising interventions.

In an effort to build upon that research, ETA gathers evidence of effective practices not only from its own research and demonstrations, but also from the Department of Education's efforts, such as the Office of Vocational and Adult Education's (OVAE's) Disconnected Youth project and related research. Further, in an effort to comprehensively factor evidence of effectiveness into program planning and to learn more about the factors that contribute to strong, vibrant academic alternative learning environments, ETA has held three Alternative Education Listening Sessions. These sessions were attended by experts from around the country well-versed in alternative education including Department of Education representatives who shared expertise from all of Department of Education's sub-agencies, practitioners, policy makers, and individuals from various educational think tanks and affinity groups.

The Listening Sessions provided invaluable input from a range of experts on the effectiveness of different alternative education models. The consensus of experts revealed an urgent need to take existing models that have been proven successful to scale, as well as a need to support the development of new models that address the rapidly changing skill sets needed for the workplace and post-secondary education. Listening Session experts concluded that in order to be effective, new models should:

- Align with the No Child Left Behind legislation;
- Focus on helping participants meet State standards in the core subjects;
- Include alternative learning strategies such as applied and/or contextual learning;
- Acknowledge the need for interdisciplinary learning;
- Support portable credentialing;
- Provide extensive career exploration, guidance, and planning; and
- Provide multiple pathways for both learning and career growth.

ETA integrated these elements in several grant competitions recently launched which provide support for alternative education, including:

- A \$47 million YouthBuild competition that will fund approximately 95 programs that provide an integrated academic and occupational skill training model for at-risk youth;
- A \$3 million competition which will support towns with populations between 75,000 and 300,000 to develop blueprints for multiple education system pathways; and
- A \$6 million competition to improve alternative educational pathways for youth recently released from juvenile corrections or on probation.

The Department's fiscal year 2008 current law budget request continues to support ETA's focus on alternative education through the YouthBuild program, pilot and demonstration funding, the proposed Reintegration of Ex-Offenders program which will serve both adults and youth, and the WIA Youth program which will continue its focus on out-of-school youth by addressing alternative education. The Department will also address alternative education in fiscal year 2008 through the Workforce Innovation in Regional Economic Development (WIRED) initiative, through which several regions are using WIRED grant funds to examine their existing education infrastructure. In all of these efforts, the Department will continue to collaborate not only with the Department of Education but also with other private foundations and organizations that are addressing the Nation's drop-out crisis.

## DISABILITY PROGRAM NAVIGATORS

*Question.* The Disability Program Navigators have been a major benefit to improved services and service delivery coordination with the One-Stops for job seekers with disabilities. Why are you recommending no funding for this activity? Does DOL have a plan for serving individuals with disabilities and others with multiple barriers to employment through the Workforce Development System in the future? What is the plan?

*Answer.* The Disability Program Navigator (DPN) program has been successful. However, from the outset, it has been the Department's intent for States to ultimately assume responsibility for this activity. The Department has been actively working with grantees on developing sustainability plans. These plans provided strategies by which the States could continue to provide these services through integration within the One-Stop Career Centers. The Department is also working with the Social Security Administration on the pending regulatory revisions to the Ticket to Work program which will make it much easier for One-Stop Career Centers to become Employment Networks, providing an additional funding source to sustain these activities.

The DPN grants have provided effective strategies to improve the accessibility of One-Stop Career Center services for job seekers with disabilities. Effective State practices are being shared broadly through a variety of mediums—such as the Employment and Training Administration's interactive knowledge Web site, Workforce<sup>3</sup>One, grantee meetings, and conferences—in order to expand the capacity of the One-Stop system to serve people with disabilities and increase service levels to this population.

## PRISONER REENTRY INITIATIVE

*Question.* Please provide a copy of the evaluation of this initiative, which is expected by the end of program year 2007. Also, please provide information on the number of grants awarded under the beneficiary choice model. What is the evidence base for funding this model of service delivery?

*Answer.* The Prisoner Reentry Initiative (PRI) evaluation will be completed in November 2008, with a final report submitted at that time. An interim report presenting early observations and findings is in development, a copy of which will be provided following DOL/ETA review, which is anticipated to be completed by November 2007.

With regard to the Beneficiary Choice Initiative (BCI), a substantial body of research on ex-offenders has documented high levels of unemployment, substance abuse and mental illness following release from incarceration, in conjunction with low levels of educational attainment, engagement with family members, and healthy ties to the community. These factors contribute to renewed criminal behavior, reduced public safety, and a host of poor outcomes for future generations, all of which contributed to development of the BCI.

Faith-based and community institutions are among the most trusted institutions in the urban neighborhoods to which the majority of released inmates will return. They have a rich tradition of outreach and service to those most in need of assistance and a proven ability to work collaboratively with other service providers and justice agencies for the delivery of social services. In addition, research has shown that ex-offenders with strong family and community ties have greater success in reintegrating into the community and avoiding future incarceration.

Consistent with the administration's emphasis on individual choice and personal responsibility, the PRI provides flexibility and freedom to both participants and providers in developing a strategy that best fits the unique needs of each individual for developing his or her own talents. Assisting ex-offenders to develop their own service strategy will increase their personal investment in their training decisions with a resultant increase in engagement and, it is hoped, completion of program services.

## PRISONER REENTRY INITIATIVE AND RESPONSIBLE REINTEGRATION OF YOUTHFUL OFFENDERS

*Question.* According to the fiscal year 2008 budget justification, this proposed initiative is based on the lessons learned from the Responsible Reintegration of Youthful Offender Community College Initiative: To date, what outcome data provided by grantees has been used to assess whether this program is meeting stated objectives? What changes, if any?

*Answer.* The proposed Reintegration of Ex-Offenders initiative would capitalize on lessons learned from both the Prisoner Reentry Initiative (PRI) and the Responsible

Reintegration of Youthful Offenders (RRYO). Outcome data on both efforts are provided below.

The PRI performance measures include enrollment, entered employment, employment retention, employment earnings, and recidivism. During the first year of the project, the Department of Labor collected baseline information on which to base the goals for these performance measures.

As of the first year of data, with four full reporting quarters, the enrollment rate exceeded the first year goal of 6,250 participants across all 30 sites. The entered employment rate was 47 percent; however, this measure is based on program “exiters” of which there are few in the program’s first year. The initiative achieved 3,420 initial job placements, indicating success placing participants into employment. The recidivism rate was at 11 percent. It is too early to report data on earnings and retention given that these are also “exit-based” outcomes.

For RRYO, outcome data provides information on: enrollment, placement (including job, military, post-secondary education, or long-term occupational training placements), diploma/GED attainment, participation, career pathways, high growth employer engagement, retention, community service, and service-centered mentoring.

The Ready4Work demonstration, which was funded through the RRYO appropriation and which piloted the PRI program, enrolled 4,482 former prisoners over a 3-year period, placed 2,543 of these persons into employment, and showed a recidivism rate of 6.9 percent over 1 year and a participant cost of \$4,500.

Other grants provided under the RRYO appropriation are serving large numbers of youth each year in high-crime communities. Over 9,000 youth and young adults are served by these grants each year, with participants experiencing a recidivism rate of roughly 10 percent.

#### EBSA FTE AND FUNDING LEVELS

*Question.* For the past 5 years (including fiscal year 2007, based on the enacted appropriation), please provide a table identifying FTEs and dollars allocated by budget activity.

*Answer.* The following table depicts enacted funding and FTE levels by budget activity from fiscal year 2003 through fiscal year 2007.

#### EMPLOYEE BENEFITS SECURITY ADMINISTRATION

[Dollars in thousands]

| Budget activity                                | Fiscal year |     |           |     |           |     |           |     |           |     |
|------------------------------------------------|-------------|-----|-----------|-----|-----------|-----|-----------|-----|-----------|-----|
|                                                | 2003        |     | 2004      |     | 2005      |     | 2006      |     | 2007      |     |
|                                                | Funding     | FTE | Funding   | FTE | Funding   | FTE | Funding   | FTE | Funding   | FTE |
| Enforcement & Participant Assistance .....     | \$91,526    | 696 | \$102,730 | 800 | \$109,374 | 764 | \$111,239 | 753 | \$118,718 | 738 |
| Policy & Compliance Assistance .....           | 20,441      | 143 | 16,907    | 108 | 17,357    | 101 | \$17,283  | 96  | \$17,585  | 92  |
| Executive Leadership & Program Oversight ..... | 4,316       | 22  | 4,403     | 22  | 4,482     | 22  | 5,029     | 26  | 5,270     | 25  |
| Totals .....                                   | 116,283     | 861 | 124,040   | 930 | 131,213   | 887 | 133,551   | 875 | 141,573   | 855 |

Note.—The fiscal year 2004 FTE level for the Policy and Compliance Assistance budget activity reflects a comparative transfer of 40 FTE for the EBSA participant assistance function into the Enforcement and Participant Assistance budget activity.

#### PENSION PROTECTION ACT OF 2006

*Question.* Please provide a timeline for the issuance of regulations required by the Pension Protection Act of 2006.

*Answer.*

#### PENSION PROTECTION ACT OF 2006 (PPA) REGULATIONS

| PROJECT                                                                                                                                        | PAST ACTION                                                                                                                             | NEXT ACTION                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| PPA Annual Report Form Changes (including simple report for under 25 participant plans, pension funding info & e-file for actuarial schedule). | Supplemental Proposal 71 FR 71562 (Dec. 11, 2006) related to larger proposed Forms Revisions 71 FR 41359; 41392; 41616 (July 21, 2006). | Final Forms and Related Rule changes—Summer 2007 |

## PENSION PROTECTION ACT OF 2006 (PPA) REGULATIONS—Continued

| PROJECT                                                                                                        | PAST ACTION                                                                                                                                    | NEXT ACTION                             |
|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| Default Investments—Safe Harbor .....                                                                          | Proposed Rule 71 FR 56806 (Sept. 27, 2006).                                                                                                    | Final Rule—Summer 2007                  |
| Cross Trading Exemption .....                                                                                  | Interim Final Rule 72 FR 6473 (Feb. 12, 2007).                                                                                                 | Final Rule—Fall 2007                    |
| Revocation of Election Re: Multiemployer Plan Status.                                                          | Model Notice 71 FR 69594 (Dec. 1, 2006) .....                                                                                                  | Completed                               |
| Investment Advice—plans .....                                                                                  | Issued interpretive guidance—Field Assistance Bulletin 2007–01 (February 2, 2007) RFI 71 FR 70429 (Dec. 4, 2006).                              | Proposed Rule—Fall 2007                 |
| Investment Advice—IRAs Feasibility Determination.                                                              | RFI 71 FR 70427 (Dec. 4, 2006) .....                                                                                                           | Report to Congress by December 31, 2007 |
| Plan Assets Regulation .....                                                                                   | .....                                                                                                                                          | Proposed Rule—Fall 2007                 |
| Rollovers for Non-spouse Beneficiaries—Amendment to Abandoned Plan Regulation.                                 | Interim Final Rule 72 FR 7516 (Feb. 15, 2007).                                                                                                 | Final Rule—Fall 2007                    |
| DB Plan Annual Funding Notice .....                                                                            | .....                                                                                                                                          | Interim Final Rule and Model—Fall 2007  |
| Periodic Benefit Statements .....                                                                              | Issued interpretive guidance to facilitate administration in the absence of regulations—Field Assistance Bulletin 2006–03 (December 20, 2006). | Proposed Rule and Model—Fall 2007       |
| Access to Multiemployer Pension Plan Information.                                                              | .....                                                                                                                                          | Interim Final Rule—Summer 2007          |
| Civil Penalty 502(c)(7)—Failure to Provide Notice of Freedom to Divest ERISA 101(m) (Treasury Model 180 days). | .....                                                                                                                                          | Final Rule—Summer 2007                  |
| QDRO Timing .....                                                                                              | Interim Final 72 FR 10070 (March 7, 2007) ..                                                                                                   | Final Rule—Early 2008                   |
| Notification of Endangered or Critical Status.                                                                 | Requires coordination with Treasury .....                                                                                                      | Model—Early 2008                        |
| Civil Penalty 502(c)(4):                                                                                       |                                                                                                                                                |                                         |
| (1) Failure to Respond to 101(k) Request.                                                                      |                                                                                                                                                |                                         |
| (2) Failure to Provide 514(e) Notice of Auto Contributions.                                                    |                                                                                                                                                |                                         |
| (3) Failure to Provide 101(l) Notice of Withdrawal Liability.                                                  |                                                                                                                                                |                                         |
| (4) Failure to Provide 101(j) Notice of Funding-Based Limitation.                                              | .....                                                                                                                                          | Proposed Rule—Early 2008                |
| Summary Report of Multiemployer Plan Information to Employers and Unions.                                      | .....                                                                                                                                          | Interim Final Rule and Model—Early 2008 |
| Notice of Funding-Based Limitation .....                                                                       | Requires coordination with Treasury .....                                                                                                      | Proposed Rule—2008                      |
| Notice of Potential Withdrawal Liability .....                                                                 | Requires coordination with Treasury and PBGC.                                                                                                  | Proposed Rule—2008                      |
| Notice of Reduction to Adjustable Benefits .....                                                               | .....                                                                                                                                          | Proposed Rule and Model—2008            |
| Civil Penalty 502(c)(8)—Failure to Adopt Funding Improvement Plan.                                             | .....                                                                                                                                          | Proposed Rule—2008                      |
| Civil Penalty 502(c)(2)—Failure to Provide Notice of Election of Multiemployer Status.                         | .....                                                                                                                                          | Proposed Rule—2008                      |
| Civil Penalty 502(c)(2)—Failure of Multiemployer Plan to Secure Timely Actuarial Certification.                | .....                                                                                                                                          | Proposed Rule—2008                      |

*Question.* What level of resources and FTEs will be devoted to this activity in fiscal year 2007 and under the budget request for fiscal year 2008?

*Answer.* EBSA's Policy and Compliance Assistance budget activity has primary responsibility for the development and issuance of the regulations required by the Pension Protection Act of 2006 (PPA). Within this activity, approximately 19 FTE and \$3.6 million will be devoted to PPA regulatory activity during fiscal year 2007. In fiscal year 2008, EBSA estimates approximately 19 FTE and \$3.8 million will be needed for PPA implementation. In addition, the Plan Benefits Security Division of the Office of the Solicitor estimates that it will devote approximately 2.5 FTE and \$412,500 in both fiscal year 2007 and fiscal year 2008. These estimates exclude the resources expended by other organizations outside EBSA such as Departmental Management, and other oversight/clearance activities.

## EMPLOYMENT STANDARDS ADMINISTRATION

*Question.* For the past 5 years (including fiscal year 2007, based on the enacted appropriation), please provide a table identifying FTEs and dollars allocated by budget activity.

*Answer.* The requested information is included in chart Employment Standards Administration, Budget Activity by fiscal year.

[The information follows:]

## EMPLOYMENT STANDARDS ADMINISTRATION BUDGET ACTIVITY BY FISCAL YEAR

| Program                                                                      | Fiscal year |               |       |               |       |               |       |               |                   |               |
|------------------------------------------------------------------------------|-------------|---------------|-------|---------------|-------|---------------|-------|---------------|-------------------|---------------|
|                                                                              | 2003        |               | 2004  |               | 2005  |               | 2006  |               | 2007 <sup>1</sup> |               |
|                                                                              | FTE         | Funding       | FTE   | Funding       | FTE   | Funding       | FTE   | Funding       | FTE               | Funding       |
| Wage and Hour Division .....                                                 | 1,392       | \$155,626,000 | 1,442 | \$160,095,829 | 1,346 | \$164,494,758 | 1,300 | \$165,685,410 | 1,200             | \$170,219,521 |
| Federal Contractor and EEO Standards Enforcement .....                       | 742         | 78,033,000    | 749   | 79,441,000    | 691   | 80,059,000    | 670   | 81,285,000    | 625               | 82,441,456    |
| Office of Workers' Compensation Programs:                                    |             |               |       |               |       |               |       |               |                   |               |
| Federal Employees' Compensation .....                                        | 839         | 86,392,000    | 839   | 86,260,000    | 801   | 86,819,000    | 801   | 88,446,000    | 760               | 90,137,213    |
| Longshore and Harbor Workers' Compensation—General .....                     | 96          | 10,232,000    | 96    | 10,490,000    | 93    | 10,511,000    | 93    | 10,682,000    | 90                | 10,752,158    |
| Longshore and Harbor Workers' Compensation—Trust Fund .....                  | 11          | 1,958,000     | 11    | 2,016,000     | 11    | 2,012,000     | 11    | 2,028,000     | 9                 | 2,041,885     |
| Division of Coal Mine Workers' Compensation .....                            | 214         | 31,632,000    | 214   | 31,628,000    | 214   | 32,232,000    | 205   | 32,659,000    | 191               | 33,171,000    |
| Office of Labor-Management Standards .....                                   | 297         | 34,279,000    | 347   | 38,580,000    | 336   | 41,681,000    | 384   | 45,737,000    | 313               | 47,753,357    |
| Program Direction and Support .....                                          | 107         | 14,591,000    | 107   | 15,499,000    | 103   | 15,635,000    | 93    | 17,592,000    | 93                | 17,933,000    |
| Federal Employees Compensation Act Benefits .....                            |             | 160,000,000   |       | 160,000,000   |       | 230,000,000   |       | 237,000,000   |                   | 227,000,000   |
| Federal Employees Compensation Act—Fair Share .....                          | 133         | 37,657,000    | 133   | 39,261,000    | 128   | 39,668,000    | 127   | 53,695,000    | 127               | 51,034,000    |
| Disabled Coal Miners .....                                                   | 17          | 5,564,000     | 17    | 6,143,000     | 17    | 5,191,000     | 17    | 5,250,000     | 17                | 5,373,000     |
| Energy Employees Occupational Illness Compensation Program Act, Part B ..... | 380         | 104,867,000   | 300   | 51,651,000    | 275   | 40,321,000    | 275   | 96,081,000    | 275               | 102,307,000   |
| Energy Employees Occupational Illness Compensation Program Act, Part E ..... |             |               |       |               | 105   | 49,975,000    | 189   | 59,950,000    | 189               | 59,531,000    |

<sup>1</sup>Fiscal year 2007 reflects full-year continuing resolution apportionment approved by OMB.

## WAGE AND HOUR DIVISION

*Question.* For the past 5 years (including fiscal year 2007, based on the enacted appropriation), please provide a table identifying FTEs and dollars allocated by budget activity.

*Answer.*

| Fiscal year | FTE used           | Actual obligations       |
|-------------|--------------------|--------------------------|
| 2003 .....  | 1,396              | \$155,673,000            |
| 2004 .....  | 1,333              | 160,084,000              |
| 2005 .....  | 1,266              | 164,616,000              |
| 2006 .....  | 1,238              | 165,706,000              |
| 2007 .....  | <sup>1</sup> 1,212 | <sup>2</sup> 101,253,000 |

<sup>1</sup> Estimated.

<sup>2</sup> Through May 9, 2007.

*Question.* According to the February 26, 2007 Daily Labor Report, Wage and Hour Administrator said that “he understands the concerns of attorneys who believe opinion letters were being used as a tool in ongoing litigation and that it is an issue that needs to be reviewed inside DOL.” What is the status of the review of this alleged practice? Have you reached any conclusions, and, if necessary, identified steps for corrective action?

*Answer.* That portion of the Daily Labor Report article is an imprecise and potentially confusing paraphrasing of the Administrator’s remarks. The Wage and Hour Division (WHD) has long had a policy of not issuing an opinion letter to a party to either an ongoing WHD investigation or private litigation involving the issue or issues raised in the request for an opinion letter. During a presentation that the Administrator made to a section of the American Bar Association, some audience members suggested that this policy is unfair to workers. Their concern was that WHD’s policy would not preclude DOL from issuing an opinion letter to a trade association or other entity that was not a party to a WHD investigation or private litigation, who in turn would provide that opinion letter to a member of the organization that was involved in an investigation or ongoing litigation. They argued that workers who might like to obtain an opinion letter lack a similar option. The Administrator acknowledged that concern and stated that it merited further consideration. This matter is currently under review.

## FAMILY AND MEDICAL LEAVE ACT

*Question.* In response to questions for the record for the fiscal year 2007 Department of Labor budget, the Department indicated that the possibility of revisions to the Family and Medical Leave Act remains an item on the Department’s regulatory agenda. It has been more than 2 years since that statement. Please provide details on the types of changes the Department is considering and a timeline? Will the Department commit to not take any action that would lessen the rights of workers to leave under the Act?

*Answer.* WHD invited interested parties having knowledge of, or experience with, the Family and Medical Leave Act to submit comments and pertinent information related to the effectiveness of the current implementing regulations and the Department’s administration of the statute. WHD received more than 15,500 submissions from a broad cross-section of commenters including employer associations, unions, interest groups, and individuals. These comments are currently being reviewed, and no final decisions have yet been reached as to what, if any, changes might actually be proposed.

*Question.* Misclassification of employees as independent contractors is a growing problem. Studies have found that up to 30 percent of companies misclassify workers. In all of these industries low-wage workers predominate, and misclassification is often a particular problem for immigrant workers. Please provide an analysis of the expenditures you make and FTEs you devote to enforcing FLSA requirements against misclassification of workers.

*Answer.* All WHD investigators examine the employment relationship during the conduct of an investigation. Employees who are misclassified as “independent contractors” are identified during the course of investigations that cover many provisions enforced by WHD, and it is not possible to segregate expenditures or FTE used to enforce FLSA minimum wage and overtime requirements on behalf of misclassified workers. However, in its 2006 audit on the contingent workforce, the Government Accountability Office suggests that misclassified employees are more

prevalent in low-wage industries, and WHD spends approximately 60 percent of its enforcement hours in industries that employ low-wage workers.

*Question.* Please provide a detailed description of your enforcement efforts and results in this area.

*Answer.* As the Government Accountability Office notes in its 2006 audit, WHD addresses the misclassification of employees as independent contractors through its investigations, primarily those involving the FLSA. All WHD investigators first establish the employment relationship between the worker and the company during the conduct of investigations to determine whether workers are covered under the FLSA.

In its 2006 audit on the contingent workforce, the Government Accountability Office suggests that misclassified employee are more prevalent in low-wage industries, and WHD spends approximately 60 percent of its enforcement hours in industries that employ low-wage workers. Moreover, WHD devotes 20 percent to 25 percent of its resources to directed enforcement in low-wage industries—including construction, agriculture, and landscaping.

In addition to enforcement, WHD has been increasing its appearances on Spanish-language radio and television programs, reaching out to Spanish-language press, distributing worker rights cards, and participating in community events, in an effort to inform workers of their rights and prevent misclassification from happening in the first place. WHD is also in the process of revising its workplace poster to add the agency's toll-free number and web site address, which can be used to report alleged violations of the laws that WHD enforces, including those that may be related to employee misclassification issues.

*Question.* Please provide a breakdown of what percentage of all cases (e.g., all overtime cases, all janitorial services investigations, etc.) and outcomes involve misclassification of employees as independent contractors by the company.

*Answer.* The requested information is not available. Misclassified workers are identified during the course of investigations that cover many provisions enforced by WHD, and it is not possible to segregate cases that involve misclassification of employees as independent contractors.

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

*Question.* For the past 5 years (including fiscal year 2007, based on the enacted appropriation), please provide a table identifying FTEs and dollars allocated by budget activity.

*Answer.* The information on budgeted resources follows.

[Dollars in thousands]

|                                  | Fiscal year |       |          |       |          |       |          |       |
|----------------------------------|-------------|-------|----------|-------|----------|-------|----------|-------|
|                                  | 2003        |       | 2004     |       | 2005     |       | 2006     |       |
|                                  | Approp.     | FTE   | Approp.  | FTE   | pprop.   | FTE   | Approp.  | FTE   |
| Safety & Health Standards .....  | \$16,014    | 95    | \$15,920 | 85    | \$16,003 | 84    | \$16,462 | 83    |
| Enforcement Programs .....       | 162,973     | 1,612 | 166,015  | 1,581 | 169,651  | 1,570 | 172,575  | 1,542 |
| State Programs .....             | 90,547      | ..... | 91,959   | ..... | 91,013   | ..... | 91,093   | ..... |
| Technical Support .....          | 20,102      | 107   | 21,593   | 109   | 20,742   | 107   | 21,435   | 105   |
| Compliance Assistance .....      | 61,321      | 357   | 67,049   | 356   | 70,859   | 352   | 72,545   | 348   |
| Consultation .....               | 53,204      | ..... | 52,211   | ..... | 53,362   | ..... | 53,357   | ..... |
| Training Grants .....            | 11,102      | ..... | 10,509   | ..... | 10,217   | ..... | 10,116   | ..... |
| Safety & Health Statistics ..... | 25,894      | 39    | 22,237   | 39    | 22,203   | 38    | 24,253   | 38    |
| Executive Direction .....        | 9,153       | 50    | 10,047   | 50    | 10,106   | 49    | 10,591   | 49    |
| Totals .....                     | 450,310     | 2,260 | 457,540  | 2,220 | 464,156  | 2,200 | 472,427  | 2,165 |
|                                  |             |       |          |       |          |       | 486,925  | 2,165 |

## TARGETED INSPECTIONS

*Question.* OSHA announced in March 2007 that approximately 14,000 employers have been notified that injury and illness rates at their worksites are higher than average. Approximately 4,500 of these will be initially targeted for inspection under OSHA's Site Specific Targeting program. What is the rationale for identifying 4,500 for inspection of these 14,000? What level of resources in FTEs and dollars would be required to inspect adequately all of these worksites in fiscal year 2008?

*Answer.* OSHA collects occupational injury and illness data from employers each year through the OSHA Data Initiative. Approximately 14,000 employers each year report a Days Away, Restricted, or Transferred (DART) rate that is more than twice the national private sector DART rate. These employers are contacted by letter in an outreach initiative, and are encouraged to take advantage of OSHA's Consultation Program, a free and confidential service in each State that assists employers in reducing injuries and illnesses.

Federal OSHA conducts about 37,700 inspections each year. Slightly less than half of these are "unprogrammed" inspections: responses to fatalities and catastrophes, reports of imminent danger situations, employee complaints, and referrals. The other half are "programmed" or targeted inspections, which do not include inspections in the construction industry. The Site-Specific Targeting (SST) program is OSHA's primary national targeting system for inspecting the specific general industry workplaces that have reported the highest injury and illness rates.

Out of the 14,000 employers with a high DART rate, OSHA then selects approximately 4,500 worksites with the highest self-reported injury/illness rates—approximately four times the national private sector DART rate—to be included for inspection under OSHA's SST. In order to verify generally the reliability of claims by establishments that they have achieved low DART rates, analysts in OSHA's Office of Statistical Analysis in Washington, DC, will select—by applying a random number table to all establishments that have reported a low rate—approximately 100 low-rate establishments in high-rate industries. Some employers who did not respond to the mandatory data collection are also included for inspection. This data effectively targets OSHA's inspection resources towards establishments that are experiencing the highest rates of injuries and illnesses under our jurisdiction.

OSHA believes it is prudent to continue to include those worksites with approximately four times the national private sector DART rate in its inspections, and to use other inspection resources for other SST program sites and to respond to fatalities and catastrophes, reports of imminent danger situations, employee complaints, and referrals.

The rest of OSHA's targeted inspections currently fall under National Emphasis Programs (such as refineries, lead exposure, amputations, and trenching fatalities), construction inspections, and a wide variety of Local Emphasis Programs designed to address hazards and industries of concern, depending on local needs.

## NATIONAL EMPHASIS PROGRAM FOR REFINERIES

*Question.* In response to the Chemical Safety and Hazard Investigation Board's report into the BP Texas City refinery explosion recommendation, OSHA announced a new National Emphasis Program (NEP) to ensure that every refinery under OSHA's jurisdiction is inspected. What is the timeline for carrying out all of the inspections under this new National Emphasis program? Will these planned inspections be Program Quality Verification (PQV) inspections or of a lesser standard? If the inspections will be of a lower standard, please explain why.

*Answer.* OSHA began developing the National Emphasis Program for refineries prior to the CSB report and includes the agency's plans to inspect every refinery under Federal jurisdiction by the end of 2008.

The planned NEP inspections will not be program-quality-verification (PQV) inspections as described in OSHA's 1992 directive outlining compliance guidelines for the Process Safety Management (PSM) standard. The PQV approach employs a broad, open-ended inspection strategy and uses a more global approach to identify compliance deficiencies. The new refinery NEP provides a more focused and effective protocol for evaluating compliance with the PSM standard by directing OSHA compliance officers (CSHOs) to review documents, interview employees, and verify implementation for specific processes, equipment and procedures.

This NEP is designed to facilitate inspections at all refineries within its scope. In contrast to the PQV approach, this NEP addresses a number of priority items which CSHOs are to evaluate for compliance. OSHA's compliance officers, using the list of inspection priority items, will focus on the conditions most likely to be catastrophic fire/explosion and toxic release hazards to workers in the facility. We be-

lieve the NEP's new inspection strategy will yield more effective results than the current approach to enforcing PSM.

#### PROCESS SAFETY MANAGEMENT

*Question.* The Board's report also recommended that OSHA hire or develop new, specialized inspectors and expand the PSM training curriculum at its National Training Institute. What level of resources will be spent in fiscal year 2007 or is planned to be spent in fiscal year 2008 on these activities? How do these spending levels compare to fiscal year 2005 and fiscal year 2006?

*Answer.* OSHA began the process of expanding the number of Compliance Officers trained in PSM prior to CSB's report. PSM training has been offered annually by the OSHA Training Institute for the past several years. The OSHA Training Institute conducts a sequence of three different courses that qualifies OSHA personnel to participate in inspections conducted in accordance with the NEP on the process safety management standard for petroleum refineries.

OSHA personnel with experience in the chemical processing or refinery industries qualify as Level 1 Refinery NEP Inspection Team Members by completing the required OSHA Training Institute course or by completing other equivalent specialized seminars in process safety management. Employees who have at least 2 years of OSHA inspection experience qualify as Level 2 refinery NEP inspection team members by completing two OSHA Training Institute PSM courses.

Between fiscal year 2000 and fiscal year 2006 the OSHA Training Institute trained 194 OSHA staff on PSM. The Institute is projecting that approximately 250 OSHA staff will attend PSM training courses in fiscal year 2007.

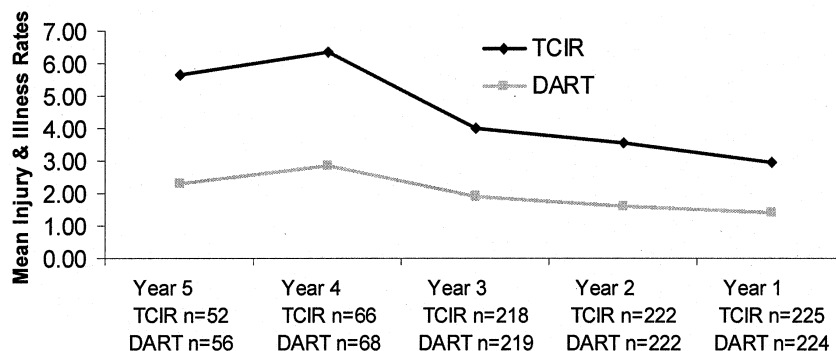
#### VOLUNTARY PROTECTION PROGRAMS

*Question.* According to OSHA data provided for a Gallup study of this program, injury rates remain unchanged before and after participation in the VPP. Why does the budget propose additional resources for an activity that, according to OSHA's own data, does not improve workplace safety and health?

*Answer.* To the contrary, the data collected and analyzed by the Gallup Organization clearly indicates that injury and illness rates dramatically improve for Voluntary Protection Programs (VPP) participants in the years prior to and working toward VPP acceptance. Additionally, once a worksite is accepted into VPP, injury and illness rates remain fairly constant with further improvement in rates for most sites over time.

VPP provides a systematic approach for improving workplace safety and health performance. The VPP program allows employers, employees, and OSHA to work together to implement an effective workplace safety and health management system that ensures safety is efficiently integrated into the management of day-to-day workplace operations. In November 2003, Gallup was contracted by the Department of Labor to design and conduct an independent evaluation of the VPP. Gallup collected data from approximately 300 worksites for the 5 years prior to acceptance into VPP. Gallup also looked at how these same worksites performed once they were accepted into the VPP. As the chart below shows, VPP participants achieved dramatic reductions in worker injury and illness rates with the most dramatic change in all 5 years occurs between year 4 and year 3.

TCIR AND DART RATES FOR THE FIVE YEARS PRIOR TO ACCEPTANCE INTO VPP



#### Year Prior to Acceptance and Sample Sizes

The Gallup study found that VPP participants not only enhance safety and health at their worksites, but also conduct mentoring and outreach to other worksites within and outside of their company. For example, Gallup found that in 2004, VPP participants mentored over 1,500 other worksites. This impacted over 500,000 employees. It is this very beneficial impact on workplace safety and health that support the agency's proposal to increase resources for VPP.

#### ERGONOMICS

*Question.* DOL has issued 408 hazard alert letters on ergonomics. Please provide for the record an example of the hazard alert letter issued by OSHA to an individual company.

*Answer.* Example is Northwest Airlines, Tampa facility, baggage handling, attached.

## U.S. Department of Labor

Occupational Safety and Health Administration  
 Concord Area Office  
 279 Pleasant Street, Suite 201  
 Concord, NH 03301  
 (603) 225-1629  
 (603) 225-1580 FAX



December 20, 2002

Reply to the attention of: 304558653

Northwest Airlines  
 1 Airport Rd., Suite 220  
 Manchester, NH, NH 03109

Dear Ms Catalina J. Shea:

Section 21 of the Occupational Safety and Health Act authorizes OSHA to train employers and employees about workplace hazards and appropriate abatement methods. During an inspection conducted at your facility located at 1 Airport Rd., Suite 220, Manchester, NH, on 11/14/2002, some conditions were identified which, although not violative of the standards, are considered significant enough to be brought to your attention with the intent of encouraging your efforts to reduce exposure or to eliminate it completely.

OSHA's observations are summarized below:

Employees handling baggage at various locations including the ticket counter, bag room, belt loaders, jetway, and baggage compartment, appear to be experiencing a significant number of injuries/illnesses related to baggage handling risk factors, that have caused and/or are likely to cause back and muscle disorders. These disorders include back pain and over-exertion injuries such as sprains and strains.

Our review of your OSHA 200/300 Injury/Illness logs show that from January 1, 2000 through November 14, 2002, that 10 of the 15 lost work-day and restricted work activity injury/illnesses were the result of baggage handling. Lifting, repetition of lifting and awkward body positions were involved in the lost work-day/restricted work activity accidents.

To aid you in your efforts to control these exposures, the following measures may be feasible for your operations:

To eliminate awkward body positions in the Baggage Room a possible solution is to raise the height of the conveyor line to reduce bending and lifting. However, it should not be so high that the employee(s) must use an elevated and extended reach with arms above the shoulder while performing the task.

A slide attached to the Jetway will reduce injury exposure. Customer Support Agents (CSAs) would not have to attempt to carry

awkward sized baggage/strollers and other last minute checked items down the narrow Jetway stairs.

A recommendation at the ticket counter is to install and use a short collection conveyor to move checked baggage from the scale to the main conveyor that leads to the Baggage Room. This would preclude the ticket agents from lifting and placing their bodies in a twisting position while turning to hand place checked baggage onto the main conveyor.

Baggage should be tagged with colored indicators that alert the Baggage Room handlers as to weights. As an example baggage in the range of 35 - 49 pounds could be tagged yellow and baggage 50 + pounds could be tagged with a red indicator (Note: example weights and colors given are just examples and are not intended to be recommendations in any way).

An additional useful and available tool for the public can be found on OSHA's web page, [www.osha.gov](http://www.osha.gov). There is an e-CAT (electronic Compliance Assistance Tool) specifically designed for baggage handling, which provides possible solutions and abatement ideas for the potential hazards encountered with each of the tasks associated with baggage handling. The specific web address for the baggage handling e-CAT is: [www.osha.gov/SLTC/baggagehandling\\_ecat/index.html](http://www.osha.gov/SLTC/baggagehandling_ecat/index.html)

These methods are not meant to be the only ones available or feasible. OSHA makes available an on-site consultation service which may identify other measures or you may consider hiring outside consultants. The on-site consultants are free and do not in any way affect the enforcement activities of OSHA. On-site consultants may be contacted at the New Hampshire Department of Labor, phone 271-2024 for Safety, and the New Hampshire Division of Public Health Services, phone 271-4676 for Health.

OSHA welcomes and requests a report of any of your efforts to reduce the above-mentioned exposures and the results of your efforts.

Sincerely,

*George L. Kilens*

DAVID C. MAY  
Area Director

#### ERGONOMICS

*Question.* Please provide for the record a detailed explanation of the types of follow-up actions OSHA undertakes after the issuance of a hazard alert letter to determine if ergonomic hazards have been addressed.

*Answer.* Follow-ups of ergonomic hazard alert letters are generally conducted under OSHA Instruction CPL 02-00-144—Ergonomic Hazard Alert Letter Follow-up Policy (copy included). This policy is similar to OSHA Instruction CPL 02-00-140—Complaint Policies and Procedures, in that an employer is first contacted by telephone and then faxed a copy of the original ergonomic hazard alert letter. The employer is given 20 working days to respond as to what steps have been taken to address the hazards identified in the original letter. The response is then evaluated and a determination made as to what progress the employer has made. The outcome of the evaluation can range from the case being closed to scheduling the employer for a second inspection.

The directive CPL 02-00-144 Ergonomic Hazard Alert Letter Follow-up Policy, is attached.

## OSHA INSTRUCTIONS

### DEPARTMENT OF LABOR

#### OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

DIRECTIVE NUMBER: CPL 02-00-144

EFFECTIVE DATE: APRIL 11, 2007

SUBJECT: ERGONOMIC HAZARD ALERT LETTER FOLLOW-UP POLICY

#### ABSTRACT

*Purpose.*—The purpose of this directive is to outline a process for contacting employers who received an ergonomic hazard alert letter (EHAL).

*Scope.*—This directive applies to any inspection coded N-03, or other IMIS code for ergonomic inspections, for which an ergonomic hazard alert letter has been issued. This directive is intended to apply only to ergonomic hazard alert letters (EHALs).

*References.*—Ergonomics Enforcement Policy, found on the web at: ([http://www.osha.gov/SLTC/ergonomics/enforcement\\_plan.html](http://www.osha.gov/SLTC/ergonomics/enforcement_plan.html)); Field Inspection Reference Manual, OSHA Instruction CPL 02-00-103.

*Cancellations.*—None.

*State Impact.*—State adoption not required.

*Action Offices.*—Regional Offices, Area Offices

*Originating Office.*—Directorate of Enforcement Programs

*Contacts.*—Office of Health Enforcement, 200 Constitution Avenue NW, Room N-3119, Washington, DC 20210

By and Under the Authority of

EDWIN G. FOULKE, JR.,  
*Assistant Secretary.*

#### EXECUTIVE SUMMARY

Employers who have received ergonomic hazard alert letters (EHALs) will be asked to provide information on progress in addressing the hazards outlined in the EHAL. This Notice outlines a process for contacting employers to determine whether hazards and deficiencies identified in the letter have been addressed. This directive applies to any inspection coded N-03 for which an ergonomic hazard alert letter has been issued, regardless of whether the inspection was initiated under an emphasis program, the Site Specific Targeting (SST) program, or was unprogrammed. This directive is intended to apply only to EHALs.

#### SIGNIFICANT CHANGES

No significant changes to previous policy.

I. *Purpose.*—The purpose of this directive is to outline a process for contacting employers who have received an ergonomic hazard alert letter (EHAL) since April 2002. This contact is a continuation of the inspection that led to the EHAL, and is intended to determine whether hazards and deficiencies identified in the letter have been addressed.

II. *Scope.*—This directive applies to any inspection coded N-03, or other Integrated Management Information System (IMIS) code for ergonomic inspections, for which an ergonomic hazard alert letter has been issued, regardless of whether the inspection was initiated under an emphasis program, the SST program, or was unprogrammed. This directive is intended to apply only to EHALs.

III. *References.*

- A. Ergonomics Enforcement Policy, found on the web at: ([http://www.osha.gov/SLTC/ergonomics/enforcement\\_plan.html](http://www.osha.gov/SLTC/ergonomics/enforcement_plan.html));
- B. Field Inspection Reference Manual, OSHA Instruction CPL 02-00-103.

IV. *Cancellations.*—None.

V. *Action Offices.*

- A. *Responsible Office*.—Directorate of Enforcement Programs, Office of Health Enforcement.
  - B. *Action Offices*.—Regional Offices. Each Region will be responsible for ensuring that this process is implemented.
  - C. *Information Offices*.—The Region may determine who will implement this directive (e.g., the Compliance Safety & Health Officer [CSHO], the Regional Ergonomic Coordinator [REC], etc.) based upon the most effective use of resources.
- VI. *Federal Program Change*.—This Notice describes a Federal program change which does not require State adoption or response.
- VII. *Significant Changes*.—Not applicable.
- VIII. *Initial Contact with Employer*.
- A. Using the current phone/fax process, contact will be made with all employers who received an EHAL issued on or after April 1, 2002 and have been in receipt of an EHAL for at least one year (this will allow employers time to implement changes). Employers who voluntarily supplied a progress report to the Area Office (AO) need not be contacted again, unless the AO determines that the response was inadequate.
  - B. During the initial phone/fax contact, OSHA staff will explain that the employer is being contacted as a follow-up to the original inspection. OSHA staff is to determine what specific measures were taken by the employer in response to the EHAL. It is suggested that in order to maintain consistency, OSHA staff should ask to speak, if possible, with the management contact(s) at the establishment who was (were) originally involved in the inspection.
  - C. Following the initial phone/fax-type telephone call, the employer will be faxed a copy of the original EHAL and a letter (OSHA staff are to use the template provided in Appendix A) requesting: (1) the employer's response regarding measures taken to address the hazard(s) noted in the EHAL; (2) copies of the employer's Log of Work-Related Injuries and Illnesses (OSHA Form 300) since the close of the original inspection; and (3) the estimated number of full-time employees (FTE) or work hours for the exposed employees for the time period corresponding to the injury and illness reports. The employer should be asked about all ergonomic control measures implemented, including those recommended in the EHAL.
  - D. A response from the employer is due within twenty (20) working days of the initial phone/fax-type telephone call. The employer may provide the response via fax, e-mail or U.S. Postal Service mail, or common carrier (i.e., FedEx, UPS, etc.).
  - E. An evaluation of the employer's response will be made and the employer's efforts will be categorized, as indicated below. The RECs will be available to assist in reviewing the response, if necessary. The response categories are:
    - 1. *No response (NR)*.—The employer did not provide any e-mail, fax or mail response to the EHAL or telephone/fax inquiry.
    - 2. *Inadequate response (IR)*.—The employer's response did not establish that it had taken useful steps, such as those identified in the EHAL, to reduce the hazard identified in the EHAL.
    - 3. *On-the-right-track response (RT)*.—The employer has undertaken measures to address the hazards identified in the EHAL, but the efforts may have either stalled or have not been sufficient to address the hazards. Injury and/or severity rates are not improving.
    - 4. *Successful response (SR)*.—The employer has implemented measures which address the hazards in the EHAL.
- IX. *Second Contact with the Employer*.
- A. *No response (NR) or Inadequate response (IR)*
    - 1. If no response is received from the employer within the allotted twenty (20) working days, or if an inadequate response is received, additional contact with the employer should be made to obtain the desired information. The AO may determine whether this second contact should be made by phone, letter, or inspection (see section X. for inspection procedures).
    - 2. If the second contact with the employer is by phone call or letter, the response shall be evaluated. The AO will have discretion regarding whether additional follow-up phone calls or additional letters are still warranted. This judgment will be based on the extent to which the employer implemented measures to address the hazard.
    - 3. Upon completion of any additional contact(s) if the employer still has not responded or has responded inadequately, an inspection shall be scheduled to

determine if the ergonomic hazards are being addressed (see section X. for inspection procedures)

B. On-the-right-track response

For all responses deemed to be “on-the-right-track,” the AO will have discretion regarding whether a follow-up phone call, an additional letter, or an on-site inspection is warranted (see section X. for inspection procedures). This judgment will be based on the extent to which the employer implemented measures to address the hazard.

C. Successful response

No further action is required.

X. Inspection Procedures.

A. All inspections shall be unannounced. The scope of the inspection will be limited to the ergonomic hazards identified in the original EHAL, any conditions cited in the original inspection, and any hazards in plain view.

B. Inspection findings shall be handled in accordance with the FIRM and any other enforcement guidelines. Conditions which are re-inspected may be considered as apparent potential violations, and citations may be issued based on the findings of the reinspection.

C. Where ergonomic hazards remain and citations are not issued, the employer should be sent a letter (additional EHAL) suggesting relevant hazard abatement measures (Appendix B).

XI. Data.

A. A spreadsheet listing ergonomic hazard alert letters will be provided to the Area Offices by the RECs. The results of the follow-up contact with each employer shall be entered into the spreadsheet and be forward the RECs twice a year (June and December) or as otherwise requested by the RECs. The information submitted by the AO will be limited to the date of the initial contact under section VIII., the date the follow-up is finalized and the final outcome for each employer. Possible results are given below and the outcome for each employer may have more than one result. For example, if an employer is contacted and provides an inadequate response resulting in an inspection which leads to a second EHAL, the spreadsheet would contain codes IR, FI and LT in addition to the appropriate dates. The EHAL follow-up will be considered final if the site is no longer in business, when a successful response is received, when an on-the-right-track response has been received and the AO determines no further action is required, or when an inspection is initiated.

NR No response

IR Inadequate response

RT On-the-right-track

SR Successful response

OB Out of Business

FI Follow-up inspection

LT Second Letter

CI Citation

B. The RECs will be responsible for submitting the results to the NO. The NO will summarize the results.

XII. IMIS.

A. When a second inspection is not conducted:

The time spent on the evaluation is to be recorded on the CSHO's OSHA 31 under Activity Details. Mark line 5a I (Inspection), then enter the inspection number of the original case on line 6 along with the time spent on the contact.

B. When a second inspection is conducted:

This will be considered a new inspection, and normal coding procedures are to be used.

XIII. *Expiration.*—This directive will be effective for three (3) years from the date signed.

APPENDIX A—TEMPLATE LETTER FOR EHAL FOLLOW-UP

DEAR EMPLOYER:

On \_\_\_\_\_ (date) \_\_\_\_\_, the \_\_\_\_\_ Area Office of the Occupational Safety and Health Administration (OSHA) conducted an inspection of your work-

place, including an evaluation of risk factors which may contribute to injuries of the musculoskeletal system. As a result of this inspection, a letter addressing these hazards (copy enclosed) was forwarded to you on \_\_\_\_\_ (date).

To evaluate your progress in addressing the hazards identified, we are seeking the following information:

- Any controls you may have implemented to address these hazards, including adding mechanical devices, redesigning workstations, modifications to employee workloads, changes to the way injuries are addressed, or any other changes which you feel may have impacted the hazard identified in OSHA's letter. This includes any controls recommended by OSHA or other controls implemented.
- A list of the types of training provided to your employees to address these hazards.
- Copies of OSHA's Form 300, Log of Work-Related Injuries and Illnesses, beginning with the year of the original inspection.
- An estimate of the number of hours worked or full-time employees for each employee whose job title(s) is (are) \_\_\_\_\_ or are in at-risk job(s) \_\_\_\_\_, by year beginning with the year of the original inspection.

Please provide your response to the \_\_\_\_\_ Area Office within twenty days of receipt of this request by fax, e-mail, regular mail, or common carrier. A brief evaluation of the effectiveness of the controls may be included if you believe this will help OSHA in evaluating your efforts. The lack of a response to this letter will result in further action by OSHA, possibly including another inspection of your facility.

Sincerely,

AREA DIRECTOR.

Enclosure.

#### APPENDIX B—TEMPLATE LETTER FOR SECOND CONTACT

##### DEAR EMPLOYER:

An evaluation of your efforts to address ergonomic hazards related to an Occupational Safety and Health Administration (OSHA) inspection has been conducted. As you know, the original inspection took place on \_\_\_\_\_. We initiated a second contact with your organization to determine your success in addressing the hazards in your workplace.

OSHA has determined that your efforts in addressing ergonomic risk factors are (unlikely to address the hazard/on-the-right-track) and that further measures, as detailed below, would contribute to resolution of the hazard:

- List relevant Engineering Controls
- Administrative/Work Practice Controls
- Training Needed

OSHA offers various forms of cooperative assistance to employers, some focused on specific hazards, others aimed at helping employers develop and implement safety and health management systems that provide more comprehensive protection for workers. These include:

- The OSHA Consultation Program, administered by the States and funded largely by OSHA, which offers free consultation services to qualifying small businesses, primarily in high hazard industries. Consultants help employers identify and correct workplace hazards and develop more comprehensive safety and health management systems.
- The Voluntary Protection Programs (VPP), which recognize companies where managers and employees are working together to establish comprehensive safety and health management systems. The VPP Mentoring Program, offered by the independent VPP Participants' Association, offers mentoring to any employer seeking assistance.
- OSHA Strategic Partnerships, which often address specific safety and health issues such as ergonomics.
- OSHA Alliances with trade or professional organizations, employers, labor organizations, and educational institutions, which provide training and other services to help employers reduce injuries and illnesses. Many OSHA Alliances focus on ergonomic issues.

You can find information about these programs, plus an array of electronic tools (e-tools), publications, and other information at [www.osha.gov](http://www.osha.gov). Any further assistance needed in this matter may be obtained by contacting our offices.

Sincerely,

AREA DIRECTOR

## ERGONOMICS

*Question.* Please provide for the record a list of follow-up inspections conducted after the issuance of an ergonomic hazard alert letter.

*Answer.* Because the Ergonomic Hazard Alert Letter Follow-up Policy was recently signed (April 11, 2007), only three sites have received follow-up inspections thus far. All three of those inspection sites were Transportation Security Administration locations (Anchorage and Fairbanks Alaska, and Portland Oregon). The original and the follow-up inspections were conducted under a Federal agency targeting program in effect for OSHA's Seattle Region.

*Question.* Please provide for the record the number of ergonomic hazard alert letters issued by year for the years 2001 to 2006.

*Answer.* The information follows.

|               | Year |      |      |      |      |      |
|---------------|------|------|------|------|------|------|
|               | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 |
| Letters ..... | NA   | 30   | 224  | 109  | 52   | 31   |

Note.—OSHA did not begin tracking ergonomic hazard alert letters until after the announcement of Secretary's Four-Pronged Approach to Ergonomics in April 2002.

*Question.* Please provide for the record the number of follow-up inspections conducted after the issuance of an ergonomic hazard alert letter by year for the years 2001 to 2006.

*Answer.* Because the Ergonomic Hazard Alert Letter Follow-up Policy was recently signed (April 11, 2007), only three Transportation Security Administration sites have received follow-up inspections, one each in 2004, 2006, and 2007.

*Question.* In 2004, the National Advisory Committee on Ergonomics (NACE) recommended 16 industries for developing ergonomic guidelines. To date, only 3 industry ergonomic guidelines have been developed—for nursing homes, poultry processing and retail grocery. What other ergonomic guidelines is OSHA working on? Which ergonomic guidelines will OSHA finalize in fiscal year 2007 and in fiscal year 2008?

*Answer.* OSHA has completed work on guidelines for three industries (nursing homes, retail grocery and poultry). The approaches to addressing ergonomics in these guidelines are also applicable to hospitals and department stores, two industries that NACE recommended for future guidelines.

Since 2004, OSHA has updated the NACE analysis with more recent injury and illness statistics and is considering industries for future ergonomics guidelines. OSHA is working on the ergonomics Guidelines for Shipyards. Once completed we anticipate a 60-day comment period and, if requested by interested parties, a stakeholder meeting shortly following the end of the comment period. We anticipate publishing the final Guidelines for Shipyards late in fiscal year 2007 or early fiscal year 2008.

*Question.* Overall, how long will it take for OSHA to issue guidelines on the 16 industries recommended by your National Advisory Committee?

*Answer.* OSHA has carefully considered the recommendations offered by NACE, which was established to advise the Secretary of Labor on ergonomics guidelines, research, and outreach and assistance. We have updated the NACE analysis using more recent injury statistics. The agency is using the results of this updated analysis as one source of information as it considers candidates for future ergonomics guidelines. It should be noted that NACE recommended that OSHA also consider the "Other Criteria" (e.g., injury trends, absence of available guidelines) established by the Guidelines Workgroup when making specific industry selections from the NACE list.

Our past experience with guidelines development is the best indicator of future timelines. The Guidelines for Nursing Homes were completed in about a year. The Guidelines for Poultry processing and the Guidelines for Retail Grocery Stores were completed simultaneously in a 2-year period. We plan to publish draft Guidelines for Shipyards in fiscal year 2007, and anticipate finalizing them in late fiscal year 2007 or early fiscal year 2008.

## PERSONAL PROTECTIVE EQUIPMENT

*Question.* In litigation regarding the OSHA Employer Payment for Personal Protective Equipment standard, DOL informed the U.S. Court of Appeals for the District of Columbia that it will issue a final standard by the end of November 2007, barring unforeseen circumstances. Please provide the committee with a written timetable indicating the remaining steps in the process for issuing the final rule and

the timetable for completing those steps and bi-monthly reports on the progress that has been made in meeting that timetable.

Answer. As you note, OSHA is moving forward with the PPE payment rule-making. The regulatory team assigned to work on the project is currently developing the regulatory text and preamble discussion explaining the rule, as well as the legal discussions and economic analyses required by the various laws and executive orders that affect the rulemaking process. We have agreed to provide the court with updates on the rule's progress every 60 days, with the first report to be made on June 4, 2007.

When the team has completed its work and I have approved the rulemaking documents, we will submit them to OMB for review. When that process is completed, we will publish the final rule in the Federal Register and submit it to Congress per the Congressional Review Act. Barring unforeseen circumstances, we expect to complete that process in November 2007.

#### PANDEMIC INFLUENZA PREPAREDNESS

*Question.* On February 26, 2007, the Department of Labor denied a petition from AFSCME and other labor organizations to issue an OSHA emergency temporary standard (ETS) to protect health care workers and other emergency responders. During the hearing on March 28, Secretary Chao indicated that the Department did not believe that OSHA had the legal authority to issue an ETS for pandemic flu under the Occupational Safety and Health Act because a pandemic had not yet occurred. Has the Department re-evaluated its authority on this issue? If so, does the Department still believe that the United States needs to be in the middle of a flu pandemic to be able to issue an emergency standard?

Answer. After careful consideration of the provisions of the Occupational Safety and Health Act of 1970, OSHA determined that it had to deny the petition because it could not legally support an ETS for a hazard that does not technically exist at this point. The rulemaking process can be complex, but has evolved in such a manner as to ensure, as much as possible, that a final rule is not only effective, but can also stand up to legal challenges.

We clearly recognize and agree with the petitioner's concerns about the need to be prepared for the possibility of an influenza pandemic. To this end, OSHA recently issued guidance to assist employers and employees in preparing for a pandemic, entitled "Guidance on Preparing Workplaces for an Influenza Pandemic." This guidance outlines steps employers and employees can take to prepare for and respond to an influenza pandemic. On May 21, 2007, OSHA also issued guidance for hospital-based health care providers, entitled "Pandemic Influenza Preparedness and Response Guidance for Healthcare Workers and Healthcare Employers."

*Question.* When will the Department of Labor issue guidelines for protecting health care workers and emergency responders in the event of a pandemic?

Answer. In addition to its recently published general guidance for workplace preparations for an influenza pandemic, OSHA, in close consultation with the Centers for Disease Control and NIOSH, has just issued a detailed guidance document for healthcare facilities entitled "Pandemic Influenza Preparedness and Response Guidance for Healthcare Workers and Healthcare Employers." OSHA also ensured that this critical subject was addressed at a conference co-sponsored with the Joint Commission for the Accreditation of Healthcare Organizations in the fall of 2006. Now that the healthcare guidance has been issued, OSHA plans to seek opportunities for outreach in the healthcare industry.

*Question.* Does the Department intend to enforce these guidelines under the general duty clause (section 5(a)(1)) of the Occupational Safety and Health Act?

Answer. No. As a matter of policy, OSHA does not issue general duty clause citations based on guidelines that the agency has issued.

*Question.* Please provide information or data on the percentage of hospitals that have implemented the infection control procedures and respiratory protection measures for health care settings recommended by the Department of Health and Human Services in order to prepare for a pandemic.

Answer. OSHA has no information on the percentage of hospitals/healthcare facilities that have implemented infection control procedures and respiratory protection measures. We are not aware of a source for this information.

#### PERM FEE

*Question.* The fiscal year 2008 budget proposes legislation to authorize a cost-based user fee on new applications for the Permanent Labor Certification (PERM) program. What is the fee structure for the PERM proposal?

Answer. The Department's proposal sets an initial filing fee of \$650 per application. This fee amount was calculated based on the Department's analysis of the funds necessary to recover the processing costs of administering this service, which helps employers to lawfully hire non-immigrant workers to fill labor shortages. Employers, not alien beneficiaries, would pay the fee. Under the Department's proposal, the Department would review and adjust the fee amount annually to ensure it remains a cost-based fee.

#### A-76 CIRCULAR, COMPETITIVE SOURCING

*Question.* From fiscal year 2004 through fiscal year 2006, please indicate at DOL how many standard OMB Circular A-76 competitions have been completed and how many of those standard competitions were won by in-house workforce? For the same period at DoL, please indicate how many streamlined OMB Circular A-76 competitions have been completed and how many of those streamlined competitions were won by the in-house workforce?

Answer. DOL completed 3 standard competitions that were all won by the in-house workforce. DOL completed 18 streamlined competitions that resulted in 2 converting to contract performance and 16 being won by the in-house workforce.

*Question.* From fiscal year 2004 through fiscal year 2006, please indicate at DOL how many times in-house workforces have been allowed to compete to perform new work? For the same time period, please indicate how many times in-house workforces have been allowed to compete to perform outsourced work. Please indicate whether OMB has ever directed or encouraged the Department of Labor to allow in-house workforces to compete to perform new work or outsourced work. Please identify those instances as well as the numbers of FTEs involved.

Answer. New work is typically staffed by Federal employees using OPM and DOL personnel rules and procedures. Where appropriate, contractor support may be procured using the Federal Acquisition Regulation procedures to perform work that is commercial in nature.

OMB has neither encouraged nor discouraged the use of the A-76 competition process by in-house workforces to perform new work or work currently performed by contractors. The opportunity to re-compete work previously competed under the A-76 process has not presented itself because contracts awarded for previous competitions have not yet expired.

*Question.* From fiscal year 2004 through fiscal year 2006, please indicate whether DoL has ever sought to use alternatives (e.g., high performing organization, business process reengineering, etc.) to OMB Circular A-76 to reach its competitive sourcing goals. Has OMB encouraged or allowed for the use of alternatives to achieve the goals? Please identify those instances as well as the numbers of FTEs involved.

Answer. Between the years fiscal year 2004 through fiscal year 2006, DOL focused its attention on a relatively narrow set of activities (less than 5 percent of its commercial workforce and less than 3 percent of its entire workforce) that were good candidates for competitive sourcing—e.g., common recurring support services, performed competently and cost-effectively in the marketplace, suitable for performance by either a contractor or an in-house team. DOL also identified commercial activities for which competitive sourcing is not the best management tool and will not be considered for competition, largely because the activities are core to the agency's mission and best performed with Federal employees. Of the 26 competitions completed to date, Federal staff have been successful retaining the work in-house in 23 cases. However, none of the competitions have reached the conclusion of their full performance period—generally 3 to 5 years following the competition. Therefore, DOL has not yet had an opportunity to consider the high performing organization (HPO) alternative. In general, OMB has indicated that they are receptive to allowing agencies to use HPO as an alternative to conducting A-76 competitions.

*Question.* How many OMB Circular A-76 privatization reviews has DOL scheduled for fiscal year 2010, fiscal year 2011, fiscal year 2012, and fiscal year 2013, and how many FTEs would be involved during each of those years?

Answer. DOL's current fiscal year 2010 Competition Plan identifies approximately 1,500 FTEs for possible competition. However, the final management decision to pursue competition and the size and scope of a competition will be contingent on the results of a feasibility study. DOL has not yet developed a competition plan for fiscal years 2011–2013.

OFFICE OF DISABILITY EMPLOYMENT POLICY (ODEP) WORKING TO ELIMINATE BARRIERS  
TO EMPLOYMENT

*Question.* Based on findings and results of ODEP's grants, what policy to reduce barriers to employment for people with disabilities has ODEP developed and seen implemented?

*Answer.* ODEP has developed policy in several disability-related employment policy areas for implementation at the national, State and local levels. Examples include:

—*Disability-related Amendments to the Workforce Investment Act (WIA).*—Based on issues identified through ODEP's pilot project and technical assistance grants, ODEP developed a set of policy recommendations for and proposed amendments to the WIA. These recommendations and proposed amendments targeted the needs of persons with disabilities, and included a description of problems with current law, justification for change, the proposed amendment, and an explanation of its intent. As a result of ODEP's efforts, the State plan requirements for WIA implementation were amended in several ways; first, to ensure that the description of how the State will meet the needs of persons with disabilities is tied to WIA section 188 (which ensures non-discrimination and equal opportunity) and Executive Order 13217 (relating to community-based alternatives for individuals with disabilities); and second, that the State should be required to specifically describe how it will ensure physical and programmatic accessibility for persons with disabilities. ODEP also recommended that the WIA youth program elements be expanded to include instruction in basic economic literacy, which while necessary for all youth, is particularly important for youth with disabilities in planning for a solid financial future and working toward self-sufficiency. The administration's bill for reauthorization of the WIA contained many additional recommendations from ODEP's, and a number of ODEP's recommendations are in the House and Senate bills for reauthorization of WIA.

—*Improving Transition Results for Youth with Disabilities.*—Special education students are more than twice as likely to drop out of high school as their peers in general education, are half as likely to participate in post secondary education, and are much more likely to be unemployed and live in poverty as adults than their non-disabled peers. To help steer families, institutions, and youth themselves through the difficult transition from youth to adulthood, ODEP developed Guideposts for Success, reflecting what research has identified as key educational and career development interventions that can make a positive difference in the lives of all youth, including youth with disabilities.

The dissemination of Guideposts for Success has increased access to coordinated, comprehensive transition services that youth with disabilities need to successfully enter employment and/or post-secondary education. Examples of how the Guideposts have been implemented at the State and local levels include:

—In Iowa, a State team of nonprofit and State government agencies working to strengthen employment services for Iowans with disabilities, is developing a State Report Card looking at indicators specific to youth with disabilities and transition from secondary school to employment and/or postsecondary education based on the Guideposts. The State Report Card will be used to measure how Iowan youth with disabilities are transitioning to adulthood compared to their peers. A draft report card can be found at [http://www.iowaemploymentpartners.com/tools/draft\\_report\\_card92205.xls](http://www.iowaemploymentpartners.com/tools/draft_report_card92205.xls)

—To date, South Carolina, Indiana, Wisconsin, and Texas are at various stages of implementing High School/High Tech projects using the Guideposts for Success model. Oklahoma's HS/HT program has received a \$300,000 grant from the National Science Foundation to develop a new program using the HS/HT model for middle school students with disabilities.

—In Maryland, the State Superintendent for the Maryland Department of Education signed a Statewide Transitioning Cooperative Agreement, which provides for statewide implementation of the Guideposts framework and is finalizing agreements with 24 local school districts to provide for incorporation of the Guideposts at the local level. Five of those agreements also include a voluntary addendum for provision of assistive technology before students leave high school. These agreements will ensure that all students with disabilities, not just those participating in the High School/High Tech program, have access to the type of comprehensive transition programming that research indicates leads to transition success.

—ODEP worked with the National Alliance for Secondary Education and Transition to develop a framework identifying what schools need to do to ensure that

youth have access to the services and supports articulated in the Guideposts. Forty-six States are now using the framework to develop their transition improvement plans, helping students in thousands of school districts prepare to enter employment and/or post-secondary education.

*Question.* What ODEP grants have lead to what policy, and where is it implemented?

*Answer.* ODEP pilot project, research, and technical assistance grants have lead to policy developed and implemented on the Federal, State, and local level. These grant efforts have supported ODEP's development of disability employment policy in the areas of:

- Universal access and design to improve the workforce development system's operational practices, services, and physical environments so they benefit the greatest number of people, including people with disabilities, and enhance the workforce development system's overall cost-effectiveness and quality;
- Youth in transition to ensure that the transition-related needs of youth with disabilities between the ages of 14 to 24 are viewed holistically with their non-disabled peers and are effectively prepared for entering employment or post-secondary education;
- Employment strategies and incentives to expand the implementation of creative strategies such as customized employment, telework, and utilization of tax and work incentives to maximize employment opportunities for people with disabilities; and
- State and local infrastructure leadership to increase leadership, collaboration and foster the development of needed infrastructure at the State and local levels where policy implementation ultimately occurs.

Forty-six States—including Alaska, Florida, Wisconsin, Georgia, New York, and California—have adopted evidence-based policies and practices that ODEP has developed based on the findings of the grants that the agency has funded.

We have included a chart for the record that provides specific examples of policy developed by ODEP that the agency has since seen implemented. None of these examples of policy adaptation, adoption, and implementation would have happened without ODEP's ongoing efforts to improve employment opportunities for people with disabilities.

*Question.* Has ODEP developed and implemented policy that ODEP developed from efforts other than grants? If so, what policy and where has it been implemented?

*Answer.* While awarding pilot project, research, and technical assistance grants is one strategy that ODEP has successfully used to develop policy and foster its implementation, ODEP also employs other critical non-grant strategies, each of which relies on its staff of disability experts and their policy analysis and development and research skills. ODEP's mandate—to eliminate barriers to employment for people with disabilities—requires an approach that utilizes multiple strategies. Policies that ODEP has developed from efforts other than grants include:

- Expanding Employment-related Transportation Options.*—Since research supports the lack of available and accessible transportation as the most often cited barrier to employment, ODEP's policy staff established new working relationships with the Department of Transportation (DOT) and other Federal partner agencies that provide transportation supports and services. The policy staff also worked with DOT on the creation of DOT's technical assistance and grant programs that assist States in their efforts to better coordinate their employment-related transportation activities. This initiative eventually resulted in the following:
  - ODEP's co-sponsorship with DOT of a National Summit on Employment and Transportation for People with Disabilities.
  - ODEP's draft of Executive Order 13330, Human Service Transportation Coordination (EO), was signed and announced by the White House at a second, larger conference that included the Departments of Education and Health and Human Services. The EO established the Coordinating Council on Access and Mobility, which implemented the United We Ride initiative. The United We Ride initiative, led by DOT, includes the participation of ten Federal agencies working together to simplify, coordinate, and enhance customer access to transportation, and to reduce duplicative laws, ensure comprehensive planning, standardize cost allocation processes, and document successful strategies for human service transportation.
  - ODEP's work with DOT ensured that the reauthorization of SAFETEA-LU included \$80 million in new funding for employment-related transportation for people with disabilities. These funds will be provided to each State to be

used to establish new transportation options for people with disabilities to gain or maintain employment.

—*Documenting the Unemployment Rate of People with Disabilities.*—A credible unemployment rate is fundamental to research and policy development across government and the private sector to increase workforce participation for people with disabilities. A multi-year collaborative effort between ODEP research staff and the Bureau of Labor Statistics (BLS) is ongoing to develop a valid and reliable method of measuring the unemployment rate of people with disabilities.

Seven disability questions are being tested and validated for use in the Current Population Survey (CPS), which is jointly conducted by BLS and the Bureau of the Census. BLS is working to launch these questions in the monthly CPS in June of 2008, and for the first time, the Department of Labor will be able to publish an official unemployment rate for people with disabilities.

In addition to the examples given here, we have included a chart for the record that provides more examples of policy developed by ODEP that the agency has since seen implemented. None of these examples of policy adaptation, adoption, and implementation would have happened without ODEP's ongoing efforts to improve employment opportunities for people with disabilities.

| Strategy /Activity                                                                                                                                                                                                                                                                      | Issue Addressed                                                                                           | Policy Implemented                                                                                                                                                                                                                                                                                                 | Location /System                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| <b>Workforce Systems Policy</b>                                                                                                                                                                                                                                                         |                                                                                                           |                                                                                                                                                                                                                                                                                                                    |                                                |
| <i>Pilot Project Grants—Customized Employment ...</i>                                                                                                                                                                                                                                   | Promoting Self-Employment as a Valid Employment Outcome for People with Disabilities.                     | One-Stop Career Centers—Self-Employment Training for Workforce Investment Act Clients<br>TEGL#16-04 <a href="http://wdr.doleta.gov/directives/corr__doc.cfm?DOCN=1684">http://wdr.doleta.gov/directives/corr__doc.cfm?DOCN=1684</a> .                                                                              | States and State workforce agencies            |
| <i>Technical Assistance and Pilot Project Grants.—</i><br>National Center on Workforce and Disability for Adults (NCWD-A); Working for Freedom, Opportunity and Real Choice Through Community Employment (WorkFORCE) Action; and Customized Employment.                                 | Ensuring Access to One-Stop Career Centers for People with Disabilities.                                  | WIA section 188 Disability Checklist <a href="http://www.dol.gov/oasam/programs/crc/WIASection188DisabilityChecklist.htm">http://www.dol.gov/oasam/programs/crc/WIASection188DisabilityChecklist.htm</a> ; Strategies and Practices for Effectively Serving all One-Stop Customers—A Framework for Systems Change. | One-Stop Career Centers                        |
| <i>Technical Assistance and Pilot Project Grants.—</i><br>National Collaborative on Workforce and Disability for Youth (NCWD-Y) and Innovative State Alignment Grants for Improving Transition Outcomes for Youth with Disabilities through the Use of Intermediaries (Intermediaries). | Increasing Access to Youth Services for Youth with Disabilities.                                          | Youth Vision Training and Employment Guidance Letter No. 28–05 (TEGL) <a href="http://wdr.doleta.gov/directives/corr__doc.cfm?DOCN=2224">http://wdr.doleta.gov/directives/corr__doc.cfm?DOCN=2224</a> .                                                                                                            | Workforce Investment Act (WIA)-funded programs |
| <i>Pilot Project Grants Activity—Customized Employment grant and Intermediaries</i>                                                                                                                                                                                                     | Increasing Participation in WIA Programs for People with Disabilities through Reauthorization of the WIA. | ODEP recommendations in the administration's bill for reauthorization of the WIA; ODEP recommendations in the House and Senate bills for reauthorization of WIA.                                                                                                                                                   | Federal WIA legislation                        |
| <i>Grant Activity—High School/High Tech (HS/HT) State Development and Implementation Grants and NCWD-Y</i>                                                                                                                                                                              | Improving Transition Results for Youth with Disabilities.                                                 | Guideposts for Success <a href="http://www.dol.gov/odep/categories/youth/">http://www.dol.gov/odep/categories/youth/</a> .....                                                                                                                                                                                     | 46 State education systems                     |
| <i>Pilot Project Grant—Customized Employment ....</i>                                                                                                                                                                                                                                   | Improving the Workforce Investment System's Effectiveness with "hard to serve" Customers.                 | Customized employment policy for the WIA system .....                                                                                                                                                                                                                                                              | Workforce Investment system                    |
| <i>Research Project Grant.—Telework/Telecommuting Pilot Research.</i>                                                                                                                                                                                                                   | Validating Telework as a Strategy to Reduce Employment Barriers for People with Disabilities.             | Telework strategies that promote employment, impact employer policies, and integrate telework into the services of the Nation's One-Stop Career Centers. <a href="http://www.teleworkusa.net">www.teleworkusa.net</a> .                                                                                            | Employers; One-Stop Career Centers             |

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Technical Assistance and Pilot Project Grants.—</i><br>NCWD—Y and Innovative State Alignment<br>Grants for Improving Transition Outcomes for<br>Youth with Disabilities through the Use of<br>Intermediaries. | Improving Professional De-<br>velopment of Youth Ser-<br>vice Practitioners.                | Employers and the Workplace Policy<br><br>Knowledge, Skills, and Abilities of Youth Service Practitioners: The Centerpiece of a Successful<br>Workforce Development System <a href="http://www.ncwd-youth.info/assets/background/ksa.doc">http://www.ncwd-youth.info/assets/background/ksa.doc</a> ; Na-<br>tional Association of Workforce Development Professionals use: <a href="http://www.nawdp.org/certifi-">http://www.nawdp.org/certifi-</a><br>cation.htm; National Partnership for Juvenile Services use: <a href="http://www.njps.org/Training/default1.html">http://www.njps.org/Training/</a><br>default1.html. | National Association of<br>Workforce Development<br>Professionals: 4,500<br>members; National Part-<br>nership for Juvenile Serv-<br>ices: 900 member organi-<br>zations |
|                                                                                                                                                                                                                  | Promoting Workplace Safety<br>and Security for Federal<br>Employees with Disabil-<br>ities. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | National, regional, and field<br>levels in GSA; HR and<br>disability program man-<br>agers in OPM; Federal<br>safety and health offi-<br>cials in OSHA                   |
| <i>Non-Grant Activity.—</i> ODEP Staff work .....                                                                                                                                                                | Influencing Employer Policies<br>and Practices.                                             | Valid, credible workplace accommodations information: <a href="http://www.jan.wvu.edu/">http://www.jan.wvu.edu/</a> Society for<br>Human Resource Management (SHRM)/ODEP Alliance Agreement: <a href="http://www.dol.gov/odep/al-">http://www.dol.gov/odep/al-</a><br>liances/directive.htm.                                                                                                                                                                                                                                                                                                                                 | Society for Human Resource<br>Management (SHRM):<br>217,000 members; Em-<br>ployers                                                                                      |
| <i>Non-Grant Activity.—</i> ODEP Staff work .....                                                                                                                                                                | Increasing Awareness about<br>Persons with Disabilities<br>and Employment.                  | Secretary of Labor's New Freedom Initiative Award (NFI): <a href="http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html">http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html</a> .                                                                                                                                                                                                                                                                                                                                                                                                     | Employers                                                                                                                                                                |
| <i>Non-Grant Activity.—</i> ODEP Staff work .....                                                                                                                                                                | Employment and Mental<br>Health.                                                            | Customized employment and Guideposts influencing the design of service delivery methods of<br>OASVETS training curriculum and REALifelines; Draft guidance by ETA for front-line staff in<br>the One-Stop Career Centers nationwide.                                                                                                                                                                                                                                                                                                                                                                                         | Department of Labor /VETS<br>& ETA                                                                                                                                       |
| <i>Non-Grant Activity.—</i> ODEP Staff work .....                                                                                                                                                                | Expanding Employment-re-<br>lated Transportation Op-<br>tions.                              | SAFETEA-LU included \$80 million in new funding for employment-related transportation for<br>people with disabilities: <a href="http://www.unitedwider.gov/">http://www.unitedwider.gov/</a> .                                                                                                                                                                                                                                                                                                                                                                                                                               | Department of Transpor-<br>tation                                                                                                                                        |
| <i>Non-Grant Activity.—</i> ODEP Staff .....                                                                                                                                                                     | Documenting the Unemploy-<br>ment Rate of People with<br>Disabilities.                      | In June 2008, BLS will launch seven (7) disability questions in the Current Population Survey<br>(CPS), which is jointly conducted by BLS and the Bureau of the Census; The results will, for<br>the first time, document the actual unemployment rate of people with disabilities: <a href="http://www.dol.gov/odep/categories/research/rate.htm">http://</a><br><a href="http://www.dol.gov/odep/categories/research/rate.htm">www.dol.gov/odep/categories/research/rate.htm</a> .                                                                                                                                         | DOL/Bureau of Labor Statis-<br>tics; Department of Com-<br>merce                                                                                                         |

## QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUE

## TECHNOLOGY TRAINING FOR WOMEN

*Question.* In your testimony, you discussed the preparation of workers for jobs in growth sectors of the economy. The Maui Economic Development Board introduced the Women in Technology program in Hawaii to encourage young women and underrepresented minorities to pursue educational opportunities in fields such as science, technology, engineering, and math. Madame Secretary, would you comment on programs to provide technology training for women, such as the Women in Technology Program introduced by the Maui Economic Board?

*Answer.* The Department of Labor applauds State and local efforts to promote opportunities for women in the fields of science, technology, engineering and math (STEM). The national STEM workforce agenda of the Department's Employment and Training Administration (ETA) ensures that all workers, including women, can take advantage of the opportunities presented in the STEM fields and can develop the skills that employers demand. ETA's national STEM workforce agenda is focused on (1) building an educated and prepared STEM workforce in the context of regional economies; (2) developing national, State, and regional strategies for talent development in support of economic growth; and (3) implementing STEM workforce education strategies across the continuum of education with a focus on post secondary opportunities for workers. In the Fall of 2007, ETA anticipates a grant competition for approximately \$10 million for STEM talent development strategies that attract and prepare workers for STEM careers, including creating an alternative pathway for out-of-school youth.

ETA's national STEM initiative is underpinned by the flagship initiatives of the agency. The President's High Growth Job Training Initiative builds partnerships among employers, education programs, and the workforce investment system to balance the skills of America's workers with the demands of employers in high growth, high demand industries that include STEM fields, such as Aerospace, Biotechnology, Health Care, and Information Technology. In order to build the pipeline of STEM workers to meet the current and future demand for their talents, the Community-Based Job Training Grants strengthen the capacity of community colleges and increase the training opportunities in the STEM fields.

Within the Workforce Innovation in Regional Economic Development (WIRED) initiative, regions are bringing together the workforce investment system, the continuum of education, industry, economic development, and other regional partners to ensure that workers are becoming educated and trained for high growth occupations and sectors in their regional economy. Many of these regions are targeting high-tech industries that require strong foundational skills in STEM education. The WIRED regions are pursuing strategies to open the door to STEM fields for a broader range of individuals, including developing 2+2+2 and accelerated math/science programs, supporting teacher development through summer camps and internships, and establishing apprenticeship programs.

Building on WIRED, Community-Based Job Training Grants, and the High Growth Job Training Initiative, ETA is committed to working collaboratively with community colleges, agencies across the Federal government, the State and local workforce investment system, and a wide array of strategic partners in the public and private sectors to help coordinate regional assets and to drive a national workforce agenda for promoting STEM education and workforce preparation.

## MAUI COMMUNITY COLLEGE NURSING DISTANCE EDUCATION

*Question.* The nursing shortage in the United States is particularly problematic in rural communities. I appreciate your interest in pursuing proper labor support to train health professionals for rural Hawaii. In particular, distance education seems to be an effective strategy to train nurses in rural areas. The Department of Labor recently funded a streamed video delivery of the nursing curriculum at the Maui Community College. I am interested in your impressions of this nurse training program at the Maui Community College.

*Answer.* The distance education program at Maui Community College significantly increases the geographical reach of the nursing program while expanding health care training capacity in Hawaii by making training offered at the campus available statewide through streamed video technology. For instance, in the spring semester pharmacology class, only 20 of the 130 registered students live on Maui. The remaining students live elsewhere in the State and accessed the course content remotely. This type of training delivery offers a low-cost means of expanding training capacity in that only one instructor is needed rather than a separate instructor at each campus. This is a promising practice in addressing the nationwide health

care faculty shortage. Further, the fact that the training can be accessed around the clock from any location helps to attract more individuals to the profession by providing more flexible training options.

#### QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

##### OFFICE OF WORKERS' COMPENSATION PROGRAMS

*Question.* It has taken DOL 2.5 years to post the site exposure matrices, which lists the toxins present at some facilities, to your website. Over 14,000 claims were denied under Part E before the claimants had access to this information. It appears that these claimants did not have the necessary evidence to develop their claim. Does DOL plan to reopen these denied claims and if so, can you elaborate on how long it will take and how much money will need to be expended?

*Answer.* There are a number reasons why Part E claims have been denied, including the submission of claims by ineligible survivors, claims for non-covered employment, claims for the death of an employee that is not related to a covered condition, insufficient medical evidence to support a claimed condition, and no relationship between toxic exposures and the claimed conditions.

Although the public Site Exposure Matrices (SEM) website was just recently launched, a SEM database has been available for claim adjudication purposes by claims examiners and the Final Adjudication Branch since April 2006. Moreover, the SEM is one of many tools available to DOL in making decisions on causation. Claims staff routinely obtains exposure information from the Department of Energy and former worker programs, and resource center staff conduct an occupational health survey with the claimant. In addition, claims staff may request a review of the case by an industrial hygienist or a physician. Utilizing the SEM database in conjunction with other causation development methods afforded equitable decision-making on claims adjudicated prior to the deployment of the public SEM website.

As a matter of policy, the SEM is not used as the sole basis for a decision. Additional tools are used by the Division of Energy Employees Occupational Illness Compensation (DEEOIC) in causation evaluation and every effort is made to assist the claimant in meeting his or her burden of proof, regardless of what information is available in SEM.

Further, although the SEM database is a valuable tool, it does not represent 100 percent of the toxic substances potentially present at a given facility and it is updated as new information becomes available. Interested stakeholders are encouraged to submit evidence to the SEM project team for evaluation and possible inclusion into the SEM. The status of site-specific comments will be available for viewing on the public site.

If an individual whose claim was previously denied now finds information in the public SEM website concerning the toxic substances that are linked to his or her particular illness, and believes that this information is relevant to the claim and was not previously considered, then he or she may submit this information with a written request to reopen the claim to the DEEOIC.

DEEOIC also engages in an ongoing review of the quality of decisions throughout the decision-making process. Recommended decisions are written by claims examiners and reviewed and signed by senior claims examiners. The claimant has the opportunity to object to the recommended decision through a review of the record or hearing, and the Final Adjudication Branch reviews and issues the final decision. Even after the final decision, a claimant may request a reconsideration within 30 days. In addition, the program conducts accountability reviews of a sample of cases. During these reviews, all aspects of the case are reviewed by a National Office team. Any errors discovered in the decision would result in reopening the claim.

##### REQUEST FOR PHILADELPHIA SHIPYARD FUNDING

*Question.* On September 7, 2006, Senator Santorum and I sent you a letter that identified the core concept of a project to revitalize the Philadelphia Shipyard. The concept is that in a global economy, companies focus their efforts on a limited set of core competencies and procure all other necessary goods and services through a highly competitive global sourcing process. If the procurement requirements of major companies are intensely analyzed, business that can potentially be done locally at competitive prices can be identified and strategically targeted.

It is my understanding that on October 26, Assistant Secretary Emily DeRocco subsequently met with Philadelphia Shipyard Development Corporations (PSDC). PSDC explained that its goal was to have small and medium sized companies in the Philadelphia region reclaim supplier jobs now being done by foreign workers for the Aker Philadelphia Shipyard and to start a pilot program to prove it could be

done. At that point, the Department of Labor was very excited about the project. The WIRED Region in Philadelphia was mentioned as a possibility for funding. At that meeting, the Department also recommended that PSDC apply for the WIRED 3rd Generation funding. However, as you know, the Governor is able to only submit two applications in this round and the Commonwealth has already endorsed projects for WIRED Generation 3 for Central PA and Western PA.

It is more than 5 months later and the PSDC is still looking for funding through the Department of Labor. My constituents in Southeast Pennsylvania are very frustrated with this process and the progress with possible funding opportunities within the DoL. The innovative supplier network training program would return jobs to the tri-State region. The cost of the project is \$1.6 million over 18 months. It will immediately result in \$16 million in sales for deckhouses to be built here with an increasing number of local workers. It includes both classroom and on the job training. It will create 60 jobs which will pay about \$55,000, including benefits, vacation and holidays.

Once PSDC provides this turnkey process, they would like to move on to other supplier contracts involved in Aker's contract for 13 tankers, with options for more that now goes overseas.

Where does the Department suggest PSDC go to secure the Department of Labor funding for this important project? This has been ongoing since early September 2006.

Answer. The U.S. Government, specifically the Department of Labor and the Department of Defense, has devoted significant funding during the past 9 years to the employees of the Philadelphia Shipyard. In particular, the Department of Labor's Employment and Training Administration (ETA) has provided approximately \$35,205,600 since 1997 in the following grants:

- A dislocated worker demonstration grant of \$11,880,000 between 1999 and 2003;
- A Defense Conversion Adjustment grant of \$5,505,600 between 2001 and 2002; and
- National Emergency Grant funds totaling \$17,820,000 between 1997 and 2005 to serve employees of the shipyard.

The Commonwealth of Pennsylvania has also provided considerable funding to support the shipyard and its employees in the form of State and local Workforce Investment Act funds since 1998, and previously, under the Job Training Partnership Act.

ETA has worked with the Philadelphia Shipyard Development Corporation (PSDC) to assess the economic development opportunities for the shipyard and the surrounding community. Recently, Assistant Secretary Emily S. DeRocco convened a meeting of Federal, State, and local government, workforce development, economic development, and business leaders to examine the opportunities and challenges in developing the region's comprehensive economic strategy, and to strategically align and leverage the Federal, State, and local public and private resources available to transform the local economy. ETA has also supported collaboration between PSDC and the Mid-Atlantic Innovation Network and Innovation Philadelphia, which has received an ETA WIRED Initiative grant.

ETA aims to award its grants through competitive processes as requested by Congress. ETA is facilitating a connection between Aker Philadelphia Shipyard and a broader audience of stakeholders and fund sources to determine the best methods of support for the supplier development proposal. ETA is hopeful that the PSDC proposal can be supported and that the shipyard can become self-sustaining, providing meaningful jobs to the many workers in the Philadelphia area.

#### QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

##### PROPOSALS TO STREAMLINE AND STRENGTHEN WIA

*Question.* Secretary Chao, I understand that the Department of Labor has recently proposed policy changes to the Workforce Investment Act to streamline and strengthen the Nation's workforce development system. Can you comment on how these changes will affect States and their ability to meet the needs being met by the current framework?

Answer. The administration's most recent legislative proposal for Workforce Investment Act (WIA) reauthorization, which was transmitted to the Congress in April, would improve the ability of the workforce investment system to support our Nation's competitiveness by providing States and local communities more flexibility to design streamlined workforce systems that best fit the unique needs of their

economies. The proposal would also better serve the needs of American workers and employers by making more money directly available for education and training.

Under the proposal, four separate funding streams through which funds are currently allotted to States to support the workforce investment system—the WIA Adult, Dislocated Worker, and Youth programs and the Employment Service—would be integrated into a single funding stream. This consolidated funding would be allocated to States—and through States to local areas—to provide Career Advancement Accounts and employment services to job seekers and employers. Career Advancement Accounts would be available to both adults and out-of-school youth entering or re-entering the workforce or transitioning between jobs, and to incumbent workers in need of new skills to remain employed or move up the career ladder.

The proposal would further enhance the workforce investment system by strengthening One-Stop Career Centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training services, and improving performance accountability. We believe our proposal will give States the tools they need to enable current and future workers to gain the skills needed to successfully enter, navigate and advance in the 21st century labor market.

#### HIGHER EDUCATION AND ADVANCED SKILL TRAINING INITIATIVES

*Question.* Secretary Chao, as we prepare workers for the new challenges of competing in a global economy, can you comment on specific initiatives that will provide opportunities for higher education and advanced skill training?

*Answer.* Today's globally competitive economy has heightened the demand for a skilled workforce. Aligning the workforce system with the new economic realities of the 21st century is critical to ensuring that American workers and businesses are competitive in the global marketplace. The Department of Labor has strived to transform the workforce investment system into a demand-driven system that catalyzes and leverages all available resources to respond to regional businesses' need for a skilled workforce and create employment and advancement opportunities for workers. The Department has undertaken three key initiatives to create a demand-driven workforce investment system and increase opportunities for education and skills training:

- Through the President's High Growth Job Training Initiative, ETA has invested over \$285 million in 150 partnerships among employers, education programs, and the workforce investment system. Each project targets the skill and talent needs of high-growth, high-demand and transformational industries in our Nation's economy and provides the resources necessary to train workers in the skills demanded by the 21st century economy.
- Community-Based Job Training Grants, also known as the Community College Initiative, seek to address a critical shortcoming in the workforce development capacity of many regions by supporting community colleges to train workers for jobs in high-growth, high-demand industries. Due to their close connection to local labor markets, community colleges are well positioned to understand the intricacies of local economies and better prepare workers for occupations in these industries. The Department has provided \$250 million to 142 community colleges and other entities under this initiative.
- The Department launched the Workforce Innovation in Regional Economic Development (WIRED) Initiative in February 2006 to emphasize the critical linkage between workforce development and economic development in regional economies. WIRED focuses on the role of talent development in driving regional economic competitiveness, job growth and prosperity for workers. Under the WIRED Initiative, the Department has invested \$260 million and provided expert assistance to 26 regions across the Nation to implement strategies that will create high-skill and high-wage opportunities for American workers.

In addition, the administration has recently submitted Workforce Investment Act (WIA) reauthorization legislation to Congress that would improve the ability of the workforce investment system to support our Nation's competitiveness. The proposal would provide State and local communities with more flexibility to design streamlined workforce systems that best fit the unique needs of their economies. The WIA reauthorization proposal would also better serve the needs of American workers and employers by making more money directly available for education and training.

## QUESTIONS SUBMITTED BY SENATOR KAY BAILEY HUTCHISON

## ADMINISTRATIVE FUNDING FOR STATE UNEMPLOYMENT COMPENSATION PROGRAMS

*Question.* It is my understanding that the Resource Justification Model, currently being utilized to allot funds to the States to administer the State unemployment compensation program, is under review by DOL.

—Could you explain how DOL is planning to comply with the current Federal statutory requirements (i.e., to properly allocate funding to States based on (1) determinations necessary for the proper and efficient administration of the UI program, (2) the population of the States, and (3) the estimated number of persons covered by each State's law)?; or

—Does DOL currently allocate State administration grants according to these certain enumerated Federal requirements and appropriately account for State populations and their administrative efficiencies?

—If you believe that DOL is properly allocating the UI administrative grants, then could you explain how DOL, and its current methodology, is in compliance with Federal law in its administration of the grants to the States equitably?

*Answer.* The Department of Labor has completed its review of the long-standing method by which the Department of Labor allocates funds to States to administer the unemployment compensation program. The Department determined that the method takes into account the statutory requirements of section 302(a) of the Social Security Act (SSA).

Section 302(a) requires the Secretary to grant each State "such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration . . ." of the State's unemployment compensation law. In making this determination, the Department collects data through the Resource Justification Model (RJM) reflecting actual expenditures by States each year in administering their unemployment compensation laws. The Department uses these data along with its projections of the level of claims and employers in each State for the upcoming budget year to determine the amount allocated to each State. These allocations in total are constrained by the total amount appropriated for State Unemployment Insurance administration.

The Department believes that all of the enumerated Federal requirements cited in section 302(a), including population, are appropriately accounted for in the allocation methodology. The statute does not assign weights to the various factors cited, thereby allowing the Secretary broad discretion. A key component of the allocation methodology is a State's claims workload level which is influenced by factors including the population of the State, its economic situation, and its unemployment compensation laws. In addition, a State's population is reflected in the number of wage records reported quarterly by employers and processed by States as a workload item funded in the allocation methodology. Wage records are also an excellent "estimate of the number of persons covered by the State law" cited in section 302(a).

"The cost of proper and efficient administration" upon which the Secretary is to determine the allocation begins with the actual cost data collected by RJM. However, the allocation process takes into consideration each State's operating costs vis-à-vis other States, and adjusts downward (through an iterative mathematical process) the subsequent year allocations of States whose costs are comparatively higher, thus encouraging efficiency in program administration. Finally, the statute allows the Secretary to use other relevant factors which, for example, include the cost of space rental and maintenance, utilities costs, and personnel salaries and benefits.

Each State's administrative funding allocation is based on State submitted data and a methodology which treats each State equally using the factors cited in section 302(a). Hence, the Department believes administrative funding for the unemployment compensation program is allocated equitably among States and in compliance with Federal requirements.

## SUBCOMMITTEE RECESS

Senator HARKIN. Thank you very much, Madam Secretary. I hope that our subcommittee here will do you a favor and give you more money than what you requested.

The subcommittee will stand in recess to reconvene at 2 p.m. on Tuesday, April 17, in room SD-124. At that time we will hear from Dr. Julie Gerberding, Director, Centers for Disease Control and Prevention and Dr. Thomas R. Insel, Director, National Institute of Mental Health.

[Whereupon, at 11:28 a.m., Wednesday, March 28, the Subcommittee was recessed, to reconvene at 2 p.m. Tuesday, April 17.]